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SURFACE
TRANSPORTATION BOARD

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The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



**Re: Finance Docket No. 27590 (Sub-No. 3),
Application of TTX Company for Approval of
Pooling of Car Service With Respect to Flatcars**

Dear Secretary Williams:

Enclosed please find the original and ten copies of TTX Company's "Application for Reauthorization of the TTX Flatcar Pool," which is contained in two volumes. The Application seeks approval, pursuant to 49 U.S.C. § 11322, of an amendment extending the term of the TTX Flatcar Pooling Agreement to which TTX's participating carriers have assented. A check in the amount of \$7,600 in payment of the fee required by the Board's regulations is also enclosed. See 49 C.F.R. § 1002.2(f)(37).

Please note that the Application proposes that the Board publish a notice commencing a proceeding and establishing a procedural schedule within 30 days of this filing. For the Board's convenience, we have included with the Application (as Exhibit E) a proposed Notice of Filing for publication in the *Federal Register*.

I am also enclosing three 3.5" discs containing the Application in a format compatible with WordPerfect 9.0.

Please date-stamp the enclosed extra copy of the Application and return it with our waiting messenger. Thank you very much for your cooperation in this matter.

Sincerely,

David L. Meyer

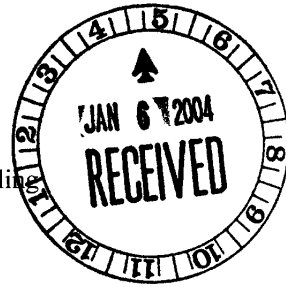
Enclosures

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BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)



APPLICATION FOR
REAUTHORIZATION OF THE TTX FLATCAR POOL

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VOLUME I OF II

**SURFACE
TRANSPORTATION BOARD**

NARRATIVE AND PROPOSED AGREEMENT

FILED

JAN 06 2004

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TRANSPORTATION BOARD**

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 27590 (Sub-No. 3)

**APPLICATION FOR
REAUTHORIZATION OF TTX'S FLATCAR POOL**

TTX Company and the rail carriers that participate in TTX's flatcar pool ("TTX") submit this application for reauthorization of the TTX flat car pooling agreement, pursuant to 49 U.S.C. § 11322.

INTRODUCTION AND SUMMARY

In 1994, the Interstate Commerce Commission ("ICC") extended for ten years – until October 1, 2004 – the flatcar pooling authority it originally granted in this docket in 1974 and renewed in 1989. *TTX Company – Pooling*, ICC Finance Docket No. 27590 (Sub-No. 2) (ICC served Aug. 31, 1994) ("*1994 Decision*" or "*TTX III*"); *see also American Rail Box Car – Pooling*, 347 I.C.C. 862 (1974) ("*1974 Decision*" or "*Trailer Train I*") (approving flatcar pool); *Trailer Train Co. – Pooling – Car Service*, 5 I.C.C.2d 552 (1989) ("*1989 Decision*" or "*Trailer Train II*") (reauthorizing pool for additional five years). The TTX flatcar pool is one of railroading's greatest success stories. For more than 30 years, TTX has been a vital part of the railroad network, a crucial catalyst of intermodal growth, and a source of significant efficiencies and other benefits to the railroad industry and its customers. As the ICC found each time it examined TTX's operations, TTX provides these and other benefits without producing any offsetting harms.

Recognizing the benefits of TTX's pooling activities, the nine railroad participants in TTX's flatcar pool have unanimously agreed to extend the TTX flatcar

pooling agreement.¹ They have assented to an amended agreement that would continue the flatcar pool for another 15 years, ensuring that there is no interruption in the significant benefits the pool provides the railroad industry and its customers. By this application, TTX and its participating carriers seek Board approval and authorization of the proposed amended flatcar pooling agreement (the "Pooling Agreement"),² the related car contracts between TTX and its pool participants,³ and future pooling activities within the scope of the proposed Pooling Agreement.⁴

Continuing TTX's existing flatcar pooling authority is clearly in the public interest. Thirty years of experience have shown beyond doubt that TTX plays a valuable and vital role in the efficient supply of flatcars to the U.S. rail network. The public benefits

¹ The railroads that participate in TTX's flatcar pool are: The Burlington Northern and Santa Fe Railway Company; Canadian National Railway Company, through its U.S. affiliates Illinois Central Railroad Company and Grand Trunk Western Railroad Company; Canadian Pacific Railway Company, through its U.S. affiliate Soo Line Railroad Company; CSX Transportation, Inc.; Florida East Coast Railway Company; Guilford Rail System; Kansas City Southern Railway Company; Norfolk Southern Railway Company; and Union Pacific Railroad Company.

² The proposed Pooling Agreement is Exhibit A hereto. The proposed agreement is substantively identical to the prior TTX flatcar pooling agreement, except that it (a) provides for an initial term of 15 years, which would continue thereafter from year to year until extended or terminated, instead of a fixed term of ten years; and (b) makes a handful of updates to the previous agreement, primarily to reflect changes in the name of the governing statute and responsible regulatory agency. Exhibit B is a redlined version showing changes from the agreement approved in 1994 and currently in force. The railroads' assents to the proposed pooling agreement and the filing of this application are set forth at Exhibit D.

³ Those contracts are TTX's Form A Car Contract (Exhibit M, in Volume II), which governs such matters as charges for use of TTX equipment, and TTX's Form D Special Devices Contract (Exhibit N, also in Volume II), which addresses various matters pertaining to TTX cars that railroads have equipped with special devices, such as autoracks, not owned by TTX.

⁴ As discussed below (at footnote 38), while TTX does not believe that any valid purpose is served by maintaining the 1989-vintage restrictions on "assignment" and "allocation" (as modified by the ICC's 1994 decision) and would favor an order lifting them, TTX is not seeking such an order in this proceeding.

of TTX's flatcar pool are reflected in the ICC's prior decisions approving the pool, the evidence presented by TTX's witnesses with this application, the unanimous assent of TTX's participants to a 15-year extension of the Pooling Agreement, and the support of a cross-section of other beneficiaries of TTX's pooling activities. We are submitting with this application (at Tab L in Volume II) statements from intermodal shippers, intermodal marketing companies, motor carriers that use rail intermodal service, ports, and forest products shippers, all urging approval of this application.

The governing legal standard has not changed since the ICC's prior decisions approving TTX's flatcar pool. Measured by the same criteria that the ICC applied in 1994, the benefits of TTX's flatcar pool are even greater now than they were ten years ago. TTX's management and maintenance of a fleet of free-running flatcars allows the participating railroads to achieve significant operating efficiencies and quantifiable cost savings. TTX's role in acquiring equipment fosters innovation and facilitates railroads' efforts to grow their intermodal transportation services and offer competitive services in other lines of business. TTX's many benefits assume even greater importance as society faces a compelling need to shift as much truck traffic as possible to the nation's railroads to reduce highway congestion, spur economic growth, and save billions that would otherwise be needed for new highway construction. Stated simply, TTX's flatcar pool is an idea that works, and the Board should grant TTX and its participating railroads the authority needed to continue this important success story.

The Board can proceed with confidence that continuing TTX's authority will not have any adverse competitive consequences. As the ICC repeatedly found, the TTX flatcar pool is a pro-competitive force in the supply of railroad flatcars. It provides a car

supply option that railroads value because TTX achieves significant efficiencies, without imposing any restriction on participating railroads' ability to procure cars from other sources or in other ways if they wish to do so.

In 1994, the ICC observed that "every commenting party provided evidence or argument that TTX's pooling application 'will be in the interest of both service to the public and the economy of operation'" in accordance with the statutory standard. *TTX III* at 3. No party suggested that TTX's continued operation of the flatcar pool would be anticompetitive, and ten years of subsequent experience have confirmed the absence of competitive harm. Indeed, in two subsequent oversight proceedings conducted by the Board's Office of Compliance and Enforcement – in 1997 and 2001 – not a single party expressed any concern about adverse effects of TTX's activities.

TTX's requests in this proceeding are quite modest and amply supported by the evidence TTX is presenting with this application.

First, TTX asks the Board to approve a 15-year extension in TTX's flatcar pooling authority. The amended pooling agreement would provide for an initial 15-year term, followed by successive one-year automatic renewals until extended or terminated. It would permit participants to withdraw from the agreement on one year's notice after the initial term expires. These terms are substantively identical to provisions of the original TTX pooling agreement approved by the ICC in 1974. Reinstatement of these terms is amply justified by 30 years of uniformly positive experience with TTX's pooling activities.

Second, TTX asks the Board to clarify the scope of its authority in one modest respect affecting its day-to-day operations. Specifically, TTX asks the Board to clarify that – without the need for advance notice to the Board or further Board approval –

TTX may make changes in the car contracts and other policies that embody its day-to-day pooling activities, as long as those changes fall within the scope of the Board-approved Pooling Agreement and the explicit limitations on TTX's "assignment" and "allocation" of cars imposed in 1989. TTX believes that such a clarification will enhance its ability to achieve efficiencies that serve the public interest.

The ICC's 1974 decision required TTX to seek advance approval for any changes in its activities that "affect the substance of [the] pooling arrangement." 347 I.C.C. at 383-84. Such a requirement produces uncertainty and is unnecessary in light of the Board's approval of the terms of the Pooling Agreement, the manifest benefits of TTX's operation of the flatcar pool under that agreement, and the Board's continuing jurisdiction to consider the effects of TTX's future operations. Eliminating the uncertainty created by the 1974 Decision would give TTX's managers (and their railroad counterparts) appropriate flexibility to respond to future opportunities to improve efficiency and better meet customer needs. TTX understands that it would still need to seek advance Board approval for any change in the Pooling Agreement itself, and TTX would continue to advise the Board on an ongoing basis of changes in its car contracts.

* * *

This application is divided into six sections. Section I sets forth the governing legal standard. Section II summarizes the relevant background facts, including the ICC's repeated findings concerning the significant benefits achieved by TTX, culminating in the 1994 decision extending TTX's authority until 2004; the results of the Board's subsequent oversight process; and an overview of the significant developments in the decade since 1994 that underscore the importance of renewing TTX's authorization.

Section III explains why continued authorization of TTX is not merely in the public interest, but is imperative to facilitate continued growth of intermodal transportation in North America.

In Section IV we address the modest changes sought in this application: first, a term of 15 years instead of the 10-year term approved in 1994; and, second, clarification that TTX's authority encompasses pooling activities within the scope of the Pooling Agreement, without the need to seek additional pre-approval for changes in TTX's car contract or other policies that may "affect the substance of [the] pooling arrangement." In Section V we demonstrate the lack of any countervailing competitive harms arising from the authority TTX requests. Finally, in Section VI, we propose a schedule for the proceeding initiated by this application.

The application is verified by Andrew F. Reardon, TTX's President and Chief Executive Officer. Accompanying the application are the following materials: (1) the proposed amended TTX Pooling Agreement, which applicants will execute to become effective October 1, 2004, if approved by the Board;⁵ (2) the proposed amendment to extend the term of TTX's Form A Car Contract;⁶ (3) assents by each participant in the TTX flatcar pool to the proposed new agreement, as required by 49 U.S.C. § 11322(a);⁷ (4) a proposed Federal Register Notice pertaining to this application, which TTX requests be published

⁵ The proposed Pooling Agreement is Exhibit A hereto; a redline showing changes to the agreement approved in 1994 is Exhibit B.

⁶ The proposed amendment is Exhibit C hereto.

⁷ The assents are Exhibit D hereto.

within 30 days;⁸ (5) supporting verified statements from TTX witnesses and other parties that support reauthorization of the TTX flatcar pool (in Volume II);⁹ (6) current versions of TTX's Form A Car Contract and Form D Special Devices Contract, provided as background;¹⁰ and (7) photographs illustrating TTX's many flatcar types (Exhibit O).

I. THE GOVERNING LEGAL STANDARD

The governing standard is straightforward. The Interstate Commerce Commission Termination Act authorizes the Board to approve a pooling of railroad traffic, services, or earnings if it finds that pooling:

- (1) will be in the interest of better service to the public or of economy of operation; and
- (2) will not unreasonably restrain competition.

49 U.S.C. § 11322(a) (formerly 49 U.S.C. § 11342(a)).

In evaluating a pooling application, the Board therefore "assess[es] whether any anticompetitive effects flowing from the arrangement are outweighed by the efficiencies or other public benefits flowing therefrom." *Trailer Train II*, 5 I.C.C. at 559.

⁸ The proposed Federal Register Notice is Exhibit E hereto.

⁹ Volume II of this application contains (at Tabs F through L) the supporting statements of Andrew F. Reardon, TTX's President & CEO ("Reardon VS") (Tab F); Thomas F. Wells, TTX's Senior Vice President - Fleet Management ("Wells VS") (Tab G); Robert S. Hulick, TTX's Senior Vice President - Equipment ("Hulick VS") (Tab H); Dean H. Wise of Norbridge Consulting and an expert on railroad equipment supply and logistics ("Wise VS") (Tab I); Thomas R. Brown, of Strategic Directions LLP and a well-respected expert on intermodal transportation matters ("Brown VS") (Tab J); Professor Joseph P. Kalt, Ford Foundation Professor of International Political Economy at Harvard's John F. Kennedy School of Government and one of America's leading economists ("Kalt VS") (Tab K); and other supporters (Tab L).

¹⁰ The Form A Car Contract is Exhibit M; the Form D Special Devices Contract is Exhibit N. TTX is not making any changes to these contracts other than as necessary to extend the term of the Form A contract, as set forth in Exhibit C.

II. BACKGROUND: TTX'S ROLE IN EFFICIENT FLATCAR SUPPLY

A. What Is TTX's Flatcar Pool?

TTX is best known for providing the North American railroad industry with a fleet of reliable, high quality flatcars and related services to meet the needs of railroad customers.¹¹ TTX's predecessor, Trailer Train, was formed in 1955. It began operations in March 1956, pursuant to a series of bilateral contracts, with a fleet of 500 75-foot flatcars designed for intermodal use. By 1973, when it first sought authority to engage in pooling operations, its fleet had expanded to 67,468 cars, including flatcars to carry automobile racks. Today, TTX's flatcar fleet consists of 115,560 railcars. Reardon VS at 5. TTX's fleet includes 36,600 intermodal cars, which provide the capacity to carry approximately 177,300 40- to 53-foot trailers or containers;¹² 49,100 autorack flatcars, which are used along with attached racks (usually railroad-supplied) to transport finished vehicles; 13,800 bulkhead and centerbeam flatcars, which primarily carry lumber and building materials; and

¹¹ In addition to its flatcar pool, TTX also owns and operates ICC-approved pools of boxcars and gondolas (*see American Rail Box Car – Pooling*, 347 I.C.C. 862 (1974) (approving Railbox pool); *Railgon Co. & Trailer Train Co. – Pooling of Car Service Regarding Gondola Cars*, Finance Docket No. 29121 (ICC served March 17, 1980) (approving Railgon pool)); operates the ICC-approved national autorack reload pool as agent for the railroad participants (*see The Baltimore & Ohio R.R. – Pooling of Car Service Regarding Multi-Level Cars*, Finance Docket No. 29653 (ICC served Aug. 19, 1981)); and was recently selected as the operator of the ICC-approved pool of railroad-owned boxcars (*see Railroad Car Service Pooling Application (Boxcars)*, ICC Finance Docket No. 30969 (ICC served Oct. 9, 1987) (“AAR Boxcar Pool”).

¹² This capacity is referred to as an intermodal “platform,” a statistic that TTX uses because of the differences among intermodal cars. Many of TTX's intermodal flatcars are multi-unit doublestack cars, some of which carry as many as ten containers.

16,000 other types of flatcars, which are used to carry products such as pipe, structural steel, agricultural and military vehicles, and heavy equipment. *See Id.*¹³

These cars form a “free-running” fleet that is “not encumbered”¹⁴ by adherence to the AAR’s car service rules or the parochial incentives that often apply to cars owned or leased by individual railroads. TTX pool cars flow efficiently across the entire North American rail network to satisfy needs for flatcar equipment wherever they arise. Participating railroads have access to TTX pool cars on terms that encourage efficiency. TTX cars can be loaded anywhere and to any destination. When the normal flow of equipment does not result in enough empty equipment in the places needed, TTX’s active management of the pool enables cars to be directed from railroads that have excess capacity to railroads short of cars. TTX cars incur low usage charges, thereby avoiding incentives for inefficient movements aimed at getting high-cost cars off-line as quickly as possible. Participating railroads are assured access to the fleet when they need it, but are not burdened by the fleet when they are not. Rather, pool cars can be “turned back” when they are not needed – thereby avoiding usage charges – without the need to move the cars off line.

TTX’s pool is much more than a set of efficiency-generating rules governing equipment flow and utilization. To ensure that the needs of the marketplace can be met, TTX acquires new cars for the pool using its own capital, without any financial guarantee, direct or indirect, by any railroad. It also enhances capacity by modifying and upgrading existing cars to meet the changing demands of shippers. TTX has redeployed thousands of

¹³ Illustrative photographs of many of TTX’s important flatcar types are set forth at Exhibit O, in Volume II.

¹⁴ *Trailer Train I*, 347 I.C.C. at 865.

its cars to alternate types of services, extending the economic lives of these assets and maximizing economic efficiency.

TTX is responsible for the repair and maintenance of pool equipment. Maintenance is performed at TTX repair divisions located in California, Florida, and South Carolina, and at selected outside independent shop facilities. TTX performs efficient minor repairs and inspections at a network of Field Maintenance Operations located at over 40 major intermodal facilities and other strategically located sites throughout North America. TTX develops and implements improved maintenance practices – taking advantage of the latest preventive and predictive maintenance innovations – to optimize maintenance for the overall benefits of the rail network. TTX works to reduce the total costs associated with maintaining cars, including not only the cost of the repair itself, but also the costs associated with disruptions to the network when cars fail in service.

TTX also engages in research and development focused on improving the new cars it acquires as well as cars in its existing fleet. TTX works closely with railroads, carbuilders, and other equipment suppliers to design new cars and develop and test improvements to existing cars.

In terms of service and economy of operations, TTX provides substantial benefits to its participating railroads and the shipping public. It allows the railroads to respond swiftly and efficiently to the growing and evolving needs of the marketplace. It provides the equipment the railroads need to offer new services in a dynamic marketplace without requiring them to make long-term commitments of their limited financial resources to new railroad cars.

TTX is able to supply cars at the lowest reasonable cost because its equipment is utilized more efficiently, attracting loads anywhere in the country; is repositioned in response to shifts in market demand; is maintained using optimally efficient practices; and can be reconfigured to address evolving marketplace needs. Because TTX cars are used more efficiently than the railroads could use separately owned equipment TTX is able to justify acquisition of more cars, and make them available at lower costs, than could individual railroads. TTX's pool thereby expands the railroads' market opportunities and justifies TTX's acquisition of still more equipment to help the railroads provide the transportation serving shippers' demand.

B. The ICC Has Repeatedly Recognized the Important Public Benefits of the TTX Flatcar Pool

The ICC authorized TTX's flatcar pooling operations in 1974 and reauthorized those operations in 1989 and again in 1994. On each occasion, the ICC recognized the important public benefits that flow from TTX's flatcar pool.

1. The 1974 Decision

TTX and its railroad owners first sought pooling authority in response to railroad difficulties in meeting to the growing demand for flatcars. They anticipated that the proposed pool would result in an overall increase in flatcar supply nationwide, an increase in car utilization, and more flexibility of car movement than could be achieved under the existing system. *See Trailer Train I*, 347 I.C.C. at 865.

In its decision approving the pooling application, the ICC found "considerable evidence" that pooling would improve service to the public by leading to an "expansion of the freight car fleet" and "increased car utilization." *Id.* at 900. It explained that "pool flatcars have the potential to maximize total loaded miles to achieve a significant

increase in productivity over that shown by comparable railroad-owned cars.” *Id.* It observed that both participating and nonparticipating railroads would benefit from the pooling arrangement. The participating railroads would “have access to a larger fleet of freight cars without expenditure of large amounts of cash and without incurring heavy long-term financial obligations and at user charges maintained at the lowest reasonable level and levied only when the cars were on line.” *Id.* at 900-01.¹⁵ Nonparticipating railroads would benefit as a result of “the freedom of pool cars from any interchange restrictions anywhere in the United States.” *Id.* at 901.

The ICC also found that the railroad applicants had presented “significant evidence of the economies” that would arise from the proposed flatcar pool. *Id.* at 903. It concluded that “significant economies are attainable through development of standard car designs, savings in repair and maintenance costs, low car-hire charges, and centralized procurement under the proposed pooling plans.” *Id.* at 905.

The ICC concluded that the “arrangement will be in the interest of better service to the public and of economy in operation and will not unduly restrain competition,” and it approved the pooling arrangement. *Id.* at 908.

2. The 1989 Decision

In its 1989 decision, the ICC recognized that the TTX flatcar pool had in fact produced the benefits predicted in 1974. The ICC found that TTX’s “general pooling functions, including management of the free-running fleet, research and development, and repair and maintenance, provide significant benefits in terms of better service to the public

¹⁵ In fact, as a result of its turn-back policies, TTX charges railroads to use its cars only when the cars are both on line *and* in use.

and economy of operation.” *Trailer Train II*, 5 I.C.C.2d at 569. It found, for example, that “savings in empty mileage and the increased productivity from [TTX’s pooling] arrangement have been amply demonstrated.” *Id.* at 562; *see also id.* at 602 (citing “documented efficiencies and operational benefits”). It concluded that “the pool’s management has resulted in substantial cost savings for the railroads, a fully adequate car supply, reasonable car hire rates, as well as other efficiency gains” and that the benefits “have been largely passed on to shippers.” *Id.* at 602.

In the 1989 proceeding, certain parties challenged TTX’s ownership of pool cars, as opposed to its management of cars owned by others, and asserted that TTX’s role in the acquisition of cars raised “monopsony” and “monopoly” concerns. The ICC rejected these contentions. It found that TTX’s “ownership of pool cars has enabled it to achieve operating economies that have reduced the railroads’ expenses significantly.” *Id.* at 569. It concluded, in particular, that “efficiencies and savings from the pool’s car research, development, standardization, and maintenance programs would not likely be realized if it did not own the cars but simply managed a fleet of cars owned by various railroads.” *Id.*

Finally, the ICC observed that, “despite all the underlying changes [in the railroad economic and regulatory environment] of the past 15 years,” there was “a continuing place for pool management of a free-running fleet of intermodal cars” (*id.* at 562), and that TTX’s “pooling agreement produces documented efficiencies and operational benefits that are in the public interest and should be authorized” (*id.* at 602). The ICC accordingly extended TTX’s pooling authority for five years. *Id.*

3. The 1994 Decision

In 1994, the ICC reauthorized TTX for an additional ten years. The proceeding was uncontroversial. TTX’s core benefits were universally acknowledged. As

noted above, every participant in the proceeding supported TTX's application, and none expressed any competitive concern. Shippers testified that "TTX's policy of furnishing modern cars, in adequate quantity at economic rates, is a major reason why intermodal traffic has dramatically grown," and that "without TTX, railroads would be hesitant to expand into intermodal operations as quickly as the market demands." *Id.* They explained that because "TTX assumes the capital and ownership risks, expansion with new and modified equipment can occur faster to meet changing requirements." *Id.* Even Greenbrier, a carbuilder that had vigorously opposed TTX's reauthorization in 1989, agreed that "the TTX pool has worked well for car manufacturers, railroads, and shippers, and has contributed to the growth of intermodal freight business by providing a readily accessible supply of serviceable, well-managed freight cars." *Id.* at 4.

Based on such evidence, the ICC once again concluded that "TTX's basic pooling agreement will be in the interest of better service to the public and of economy of operations, and that it will not unreasonably restrain competition." *Id.*¹⁶ The ICC therefore approved a ten-year extension of the pooling agreement. Because only five years had passed since the controversy of the 1989 reauthorization, and "because of TTX's substantial impact on intermodal activities," the ICC directed the Office of Compliance and Enforcement to "prepare monitoring reports at the end of the third and seventh years of the 10-year extension." *Id.* at 6. In both the third and seventh years, the Board requested comments on

¹⁶ In addition, the ICC approved TTX's request for limited authority to assign cars for research and development purposes because it "did not raise the specter of our previous concerns about assignment." *Id.* at 5.

whether any of TTX's activities required action or oversight by the Board. No comments were filed in either instance, and the Board discontinued further monitoring in 2001.¹⁷

III. REAUTHORIZATION OF TTX IS STRONGLY IN THE PUBLIC INTEREST

The TTX flatcar pool is one of railroading's greatest success stories. In the ten years since the last authorization proceeding, TTX has continued to generate the kinds of efficiencies and service benefits that the ICC repeatedly recognized in each of the prior proceedings. As TTX's witnesses discuss in detail, the full array of TTX's pooling activities enable participating carriers to achieve substantial improvements in the efficiency of their flatcar supply and ultimately their provision of transportation services to shippers. The TTX pool improves equipment utilization, reduces the costs of equipment repair and maintenance, fosters innovation and continuous improvement in equipment that safely and efficiently meets customers' evolving needs, and allows the railroads to devote their limited capital resources to capacity expansion projects and other pressing capital improvement needs. TTX's important benefits are endorsed in this proceeding by nine applicant railroads eager to see the TTX pool continue as well as by a cross-section of other beneficiaries of TTX's flatcar pool.

A. TTX's Shared Pool of Equipment Provides Uniquely Important Benefits for a Network Industry Like Railroading

Railroads serve their customers using a single, interconnected North American network. Although each railroad operates its own portion of that system, railroad

¹⁷ See *TTX Co. – Application for Approval of the Pooling of Car Service with Respect to Flat Cars*, STB Finance Docket No. 27590 (STB served Nov. 7, 2001).

rolling stock has long known no boundaries. Every day, thousands of freight cars pass from one railroad to another at major gateways and minor interchange points across the continent.

For decades railroads have struggled to find ways to ensure that the freight cars coursing through the nation's railroad arteries are operated as efficiently as possible – so that they move under load as often as possible and move empty as infrequently as possible; that cars are available when and where they are needed to handle customer loads; and that the overall number of cars in the system is sufficient to handle current and future traffic without resulting in idle cars clogging yards, sidings, and terminals. The car supply travails of the 1960s and 1970s provide a testament to the importance of efficient car supply.¹⁸

In this unique and challenging environment, the TTX flatcar pool is an innovation that has worked remarkably well. TTX's pool of jointly-acquired, jointly-owned, and jointly-managed equipment allows railroads as a group to squeeze more productivity out of their equipment fleet, reducing operating costs and demands on limited investment dollars. There is no single key to TTX's effectiveness. It succeeds because TTX acts as the agent of its owners and for the benefit of the rail network as a whole, working to identify and implement better, more cost-effective ways of meeting the railroads' collective needs for intermodal, automotive, and other flatcars. It seeks, *inter alia*, to minimize operating costs, to maximize utilization of the railroads' investments in new equipment, to redeploy assets to their most efficient uses, and to ensure competitive and effective supply of equipment far into the future.

¹⁸ See, e.g., *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules, and Practices*, 362 I.C.C. 844 (1980).

B. TTX's Free-Running Fleet Generates Significant Efficiencies and Other Public Benefits

The traditional centerpiece of TTX's efficiency and service benefits is its "free-running fleet" of intermodal and other flatcars. Those cars are managed as a "pool" accessible by all of TTX's participating railroads, "with cars being forwarded to the locations where they are most needed at any given time, free of restrictive rules imposed by [the ICC] or others." *Trailer Train II*, 5 I.C.C.2d at 562.

The TTX fleet avoids empty miles through rules that allow participating railroads to direct TTX flatcars of all types on their lines to any point on their system for loading, and thence as a loaded car to any destination on any road. TTX achieves additional efficiencies by directing the redistribution of cars when appropriate. As Mr. Wells explains, normal traffic flows periodically lead to imbalances of empty equipment. TTX has the expertise to identify these situations and facilitate effective solutions for them more efficiently than could railroads working independently. In this way, participating roads can count on having access to a share of the TTX fleet roughly commensurate with their relative needs, and looming equipment shortages can be avoided. Wells VS at 11-12.

The efficiencies associated with TTX's free-running fleet are quite significant. As Mr. Wells explains, TTX cars move empty less often than most other cars on the nation's railroads. In 2003, for example, the TTX intermodal cars operated empty only seven miles for each 100 miles they traveled, and the TTX intermodal fleet generated 29 percent more loaded miles per platform than did non-TTX intermodal cars. Wells VS at 13. As Mr. Wise explains, these efficiencies translate into large productivity savings. TTX's role is reducing the unproductive movement of empty cars alone saves the railroads over \$180 million annually. Wise VS at 12-13. TTX passes its efficiencies on to its participating

railroads in the form of lower usage charges. As Mr. Wells and Mr. Wise explain, TTX's usage charges are generally significantly lower than the car hire rates railroads pay for comparable equipment owned by others, reflecting the efficiencies that TTX's flatcar pool generates. Wells VS at 20-22; Wise VS at 14-15.

TTX's flatcar pool also fosters more efficient railroad operating practices, which in turn reduce transportation costs and improve service to shippers. By assuring its participants access to, and unrestricted use of, pooled cars, TTX encourages railroads to use equipment in ways that serve the industry's broader interests rather than the sometimes parochial interests of individual railroads and sometimes perverse incentives created by the AAR car service rules, a primary aim of which is to protect individual carriers' access to their rolling stock assets. For example, because TTX cars can be used inexpensively, loaded in any direction, and (if demand is slack) idled to avoid further usage charges to without incurring inefficient empty movement off-line,¹⁹ railroads need not switch TTX cars out of yards, or terminals simply to avoid expensive car hire charges. Avoiding this unproductive activity saves the railroads significant operating costs and helps them maintain the fluidity of their mainlines, yards and terminals. Wells VS at 14; Wise VS at 13.

In addition, because railroads can count on access to a share of TTX pool equipment commensurate with their relative needs, they have no incentive to hoard TTX cars. Instead, as Mr. Wells explains, they are relatively more willing to let TTX equipment

¹⁹ TTX's Form A Car Contract provides that railroads may "turn-back" cars to TTX on five days notice. TTX can then redirect those cars to where they are needed or allow the noticing carrier to store the cars on its lines without incurring further car hire charges. Wells VS at 11; *see also* Exhibit M.

move off their lines as part of efficient interline movements, secure in the knowledge that they will be able to gain access to other TTX equipment when they need it.

One important area where TTX has fostered efficient interlining is at Chicago. In recent years, railroads have made strides towards increased use of “steel-wheel interchange” of intermodal equipment at Chicago, replacing less-efficient “rubber-tire interchanges” that require drayage across town on Chicago’s already-crowded streets. The shift to steel-wheel interchange is not a physical necessity. Intermodal cars need not be interchanged in order for the containers or trailers they carry to be moved from one railroad to another.²⁰ TTX’s shared pool of intermodal equipment has facilitated the railroads’ efforts to interchange intermodal equipment more freely across this vital gateway. Wells VS at 14-15; *see also* Brown VS at 11, 21.

The inherent ability of TTX’s pool equipment to change hands seamlessly in response to traffic shifts also encourages competition among railroads for traffic. With the assured availability of TTX pool flatcars to meet customer shipping needs, participating railroads can bid on traffic opportunities without having to worry about investing in new equipment to handle the customer’s business. Instead, TTX’s cars will be available to whichever railroad the customer chooses. Wells VS at 16-17.

C. TTX’s “Total Life-Cycle/Total Network” Perspective Fosters Broad Implementation of Innovations and Reduces the Railroads’ Overall Cost of Equipment Supply

The benefits generated by TTX’s flatcar pool do not stem solely from TTX’s management of a free-running fleet of cars. As the ICC recognized in 1989, “[t]he

²⁰ Intermodal shipments are different in this respect from movements in other types rolling stock, for which transloading typically entails quite prohibitive costs.

economies and better service from management of the free-running fleet – whether with respect to utilization, or to repair, maintenance, and standardization – depend on centralized purchasing and joint ownership.” 5 I.C.C.2d at 562.²¹ This remains the case today.

TTX develops, acquires, maintains, and redeploys cars in the long-run interests of the railroad network as a whole, with the aim of reducing the overall system-wide costs of car ownership and use while at the same time fostering innovation and improving the rail industry’s ability to meet customer needs. TTX’s flatcar pool enables TTX to put into practice its objective of total-network efficiency: TTX buys the right mix of equipment to match overall demand; it invests in designs and components that will reduce overall costs over the life of the car, not necessarily by minimizing up-front acquisition costs; it employs maintenance practices that not only seek the lowest-cost way of making a given repair, but also involve the right kinds of repairs at the right time to minimize overall costs, including down-time and the operational disruption of stopping trains and setting out bad order cars; and it redeploys its flatcars to meet the evolving needs of railroads and their customers. *See generally* Hulick VS at 4-5.

1. TTX’s Car Acquisition Program Ensures an Adequate and Efficiently Sized Fleet

TTX draws on its experience, the forecasts of its individual railroad participants (which are treated confidentially), and other sources to develop state-of-the-art forecasts of future traffic growth and corresponding equipment needs. TTX then designs an acquisition program to ensure that those needs are met. Importantly, TTX is indifferent as to

²¹ In 1989, the ICC resolved any doubt that TTX’s role in the acquisition of flatcars constitutes pooling within the meaning of the statute. 5 I.C.C.2d at 598.

which railroad will end up handling the traffic. Instead, TTX is concerned only that the fleet as a whole will be adequate to satisfy market demand. Once sized adequately, TTX's shared pool of equipment will inevitably and efficiently flow to whichever railroads need it. Wells VS at 5.

TTX's acquisition program has resulted in tremendous investment in flatcars throughout the pool's existence, including the years since the Board reauthorized TTX's flatcar pool in 1994. Since 1994, TTX has invested \$4.2 billion in new and redeployed flatcars of all types for the nation's railroads. Reardon VS at 4. It has spend \$3.7 billion of this total adding to its fleet 91,000 new intermodal platforms, 10,700 cars for the handling of automotive shipments, and 9,900 centerbeams and other flatcars. Wells VS at 6. These acquisitions and redeployments have allowed participating railroads to keep pace with growing demand for intermodal, automotive and other flatcar-based equipment more efficiently than separate acquisition programs.

Utilization improvements achieved by TTX allow railroads to get more productivity from their flatcar equipment. This means that each dollar TTX invests in new equipment allows railroads to provide more transportation service to their customers than if they were to acquire cars for their own separate fleets. TTX's higher productivity levels conserve capital resources and, by lowering railroad costs, also facilitate the expansion of intermodal and other transportation markets, thereby encouraging the acquisition of more equipment to meet market demand. Reardon VS at 12; Brown VS 8-18.

In addition, the TTX pool reduces investment costs – and thus encourages more investment – by spreading risks. If TTX did not exist, each railroad would have to justify its equipment expenditures based solely on expectations regarding *its own*, individual

future traffic levels. The railroads individually would face much greater uncertainty in sizing their fleets. For a variety of reasons – not least the potential effects of rail-to-rail competition – any given railroad may not experience the same degree of growth as the market as a whole. This uncertainty increases the risks of an individual railroad's investment in new equipment and tends to lead to less investment. By investing to serve market-wide demand, TTX overcomes these risks. Reardon VS at 12, 13-14. TTX's role is all the more important for lines of business – such as intermodal – where the railroads' margins are thin. Brown VS at 14-15.²²

2. TTX Plays an Important Role in Research and Development

TTX plays an important role in the development and ongoing improvement of the flatcars used by North America's railroads.

Because it buys and operates cars for the benefit of the rail network as a whole, TTX is able to achieve significant economies of scale in its design, engineering, and maintenance workforce. TTX has assembled an unmatched body of expertise and resources devoted to the development and continuous improvement of railroad flatcars. TTX uses those resources to work closely with the railroads, railroad customers, component suppliers, and carbuilders to refine and improve equipment specifications, drawing on their collective experience with TTX and other equipment to better meet evolving customer needs. TTX's role is especially important for traffic categories (such as intermodal and automotive traffic)

²² See also, e.g., "Class I's Debate Strategies For Profitability," RAIL BUSINESS (Oct. 6, 2003), p. 6; Scott Flower, "Container Volume is Growing, but Railroads' Intermodal Profit Margins Are Marginal at Best," PROGRESSIVE RAILROADING.COM (May 6, 2003).

that demand high levels of speed, reliability, and ride quality, for which lowest-common denominator interchange specifications are inadequate. Hulick VS at 8-9.

TTX works closely with carbuilders and component suppliers to achieve functional realization of new ideas in ways that will best serve the needs of the rail industry and its shippers. When problems or issues develop, TTX facilitates a swift diagnosis and implementation of appropriate solutions across the entire fleet. Hulick VS at 23. TTX has implemented a supplier evaluation program – known as the Supplier Evaluation Committee or “SECO” – that grades equipment suppliers according to the quality of their products and other objective criteria. TTX considers these criteria in its buying decisions – rather than basing its purchases solely on the relative prices quoted by competing suppliers – and works proactively with suppliers to help them improve their SECO scores. This process has driven continuous improvement in the quality, reliability, and safety of the equipment TTX purchases on behalf of its participating railroads, as well as other equipment the suppliers produce for the rail industry. *Id.* at 10-11. TTX is proud of the fact that many of its suppliers advertise their SECO credentials when offering equipment to the rail industry. *Id.* at 11.

TTX has a proven track record of fostering the development and implementation of important new innovations in car design. TTX has facilitated the development and – equally important – the dissemination and implementation of improvements in equipment that benefit the rail network as a whole by enhancing safety, improving ride quality, reducing out-of-service time, and minimizing derailment costs. Some of these improvements have been well publicized. For example, TTX has played a major role in the ongoing evolution of the doublestack car over the past two decades. TTX

worked with carbuilders, railroads, and their customers to develop, test and bring into the TTX fleet the articulated multi-platform doublestack car, the heavy-duty 125-ton doublestack car, and the stand-alone and drawbar-connected doublestack well cars. Hulick VS at 16-17. TTX also played a major role in developing the articulated multi-purpose spine car, which provides an efficient platform for trailer movements and the versatility to handle container movements during peak loading periods. TTX joined with a carbuilder to design the articulated bi-level autorack, which allows increased internal loading dimensions for damage-free movement of automobiles while improving carrying capacity. More recently, TTX helped address a market need by developing an innovative enclosed “Uni-Level” car that will allow railroads to provide damage-free handling of newly manufactured tractor-trailer equipment and shift to the rails shipments that previously moved almost exclusively by highway. Hulick VS at 17-20.

Much of TTX’s development activity has taken place behind the scenes. That work has nevertheless brought major and continuing benefits to the railroads and their customers by achieving incremental improvements in the performance of TTX’s existing car types. Mr. Hulick describes numerous examples of TTX-sponsored improvements and innovations, including the development of improved long-travel side bearings that provide superior high-speed truck stability and better curve negotiation for intermodal and automotive cars; better cast components, such as drawbars and articulated connectors; yaw dampers that help control truck hunting on high-speed intermodal spine cars; improved car cushioning units that minimize damage to lading, especially for automotive shipments; and a “split-wedge” system that is becoming the standard on the variable-damped trucks needed for high-speed stability. Hulick VS at 21-23. Over the past ten years, TTX has spent \$425

million to upgrade the ride quality of the entire North American autorack fleet in response to demand by automotive shippers for damage-free transportation. Hulick VS at 21. One tangible reflection of TTX's ongoing efforts to improve its fleet is the steady improvement in reliability observed by railroads, which have seen reductions in the number of unwanted train stops and other operational disruptions caused by TTX equipment issues. *Id.* at 7-8.

TTX also plays a role in finding the right equipment to meet railroad and shipping needs. One recent example of TTX's facilitating role is the UPS "bullet train" service recently commenced by UP. TTX assisted both UP and BNSF in identifying and supplying appropriate TTX equipment for use in their separate tests of this new high-speed train service, which demands extraordinary reliability at unusually high speeds. Hulick VS at 15 n.1.

Notwithstanding its important role in serving the rail industry's flatcar needs, TTX is by no means the exclusive source of innovation with respect to flatcars and other intermodal equipment. Railroads have not hesitated to pursue the development of innovative types of equipment for which there was insufficient industry-wide interest to warrant inclusion as part of TTX's nationwide flatcar pool. One prominent example is "RoadRailer" technology, with which several carriers experimented and Triple Crown (a venture of Norfolk Southern and Conrail) implemented extensively. Others include the more recent experiments by several carriers to develop specialized equipment to serve short-haul intermodal lanes, such as the railroad-developed "Iron Highway" program and ongoing efforts involving a variant of the Iron Highway idea. Hulick VS at 25-26; *see also* Brown VS at 18-19.

3. TTX Achieves Significant Efficiencies in the Repair and Maintenance of Pool Equipment

The TTX flatcar pool achieves a high degree of efficiency in the repair and maintenance of pool equipment. In part, these efficiencies result from the geographic scope and accumulated expertise of TTX's own maintenance facilities and forces. TTX's continent-wide network of repair shops, independent repair facilities and Field Maintenance Operations (known as "FMOs") helps avoid inefficient and time-consuming empty movements of bad-ordered equipment, saving operating costs and improving utilization of the TTX fleet. *Hulick VS* at 27. And TTX's maintenance forces develop valuable experience and expertise in diagnosing problems with TTX equipment and fixing them in the most efficient way possible. *Id.* at 28.

TTX also achieves maintenance efficiencies by investing in management and information systems related to the repair process. Maintenance information, including maintenance instructions and diagrams, is available to TTX repair facilities across the country via the internet. TTX has established a maintenance "help desk" that facilitates efficient solutions to repair problems. TTX has also developed an efficient, computerized system for parts ordering and inventory. In addition, TTX's maintenance operations benefit from the commonality in design and componentry of TTX cars, as compared to the very wide variety of cars and componentry that most shops must handle when repairing non-TTX cars. TTX's more standardized fleet allows TTX to reduce its inventories of parts (saving significant costs) and ensures that needed parts are readily available on a timely basis. *Hulick VS* at 28.

Equally important is TTX's basic approach to the maintenance of its equipment. Because TTX acts on behalf of its participating railroads, has maintenance

responsibility for all of its equipment, and does not earn revenues when equipment is being repaired, it designs its maintenance strategies and practices with the aim of reducing *all* of the costs associated with maintaining that equipment. TTX's goal is not to keep its cars in service until something breaks, and then to make only the bare minimum repair needed to get the car back into service. Rather, TTX takes a holistic approach that aims to minimize total costs for the rail network as a whole, including the operational disruption associated with unplanned train stops and the need to switch bad ordered cars on the mainline, in yards, and at terminals. Hulick VS at 28-29.

As the operator of a large, nationwide fleet, TTX has been an industry leader in implementing efficient predictive and preventive maintenance techniques. Keeping cars in good repair not only saves costs over the long run, but also reduces the significant costs associated with disruptions to rail service (or worse, derailments). TTX was an early and leading supporter of path-breaking sensor technology that allows railroads to identify conditions that may warrant maintenance attention before components reach the point where a car is deemed "bad-ordered" or "defective" under generally-applicable mechanical standards, or identified as such because it fails in train service. Hulick VS at 29-30.

In addition, when TTX has one of its cars in the shop, it does not necessarily limit repairs to the bare minimum necessary to get the car back in service. Instead, it inspects the car and considers whether other repairs are warranted while the car is idle. This avoids the inefficiencies and loss of revenue associated with later taking the car back out of service to fix another problem that could have been identified and effectively addressed on the initial visit. Hulick VS at 30-31.

TTX's efforts to keep its cars working productively and safely on the rail network have borne fruit. TTX works with its participating railroads to track and improve the performance of TTX equipment, taking advantage of the best available data on the performance of TTX cars in service, wherever they may be. TTX has devoted extensive attention to reducing undesired operating events (and the associated network costs) caused by TTX equipment – including simple train stops and costly switching moves to cut out bad ordered cars. Hulick VS at 7-8.

4. TTX Is Uniquely Able to Redeploy Flatcars to Meet Evolving Needs of Railroads and Their Customers

TTX is uniquely positioned to modify and redeploy its flatcars to new and more productive uses, utilizing existing equipment assets to their maximum physical life and providing new capacity to the industry without requiring substantial new capital investment. In response to shifting market demands, TTX has converted thousands of flatcars from the service for which they were originally designed to other uses. Hulick VS at 31. TTX has redeployed thousands of 89-foot intermodal flatcars to automotive service as the demand for intermodal equipment shifted toward doublestack cars while the demand for autoracks grew unabated. These conversions have saved the rail industry hundreds of millions of dollars in new investment. Hulick VS at 31.

TTX has also converted 89-foot flats to a variety of other, more productive uses. Mr. Hulick describes how TTX has converted over 3,000 of these cars into flatcars for use in handling shipments of pipe and other commodities, “chain tie-down” cars for handling farm machinery and other equipment, and “frame” flats for use in carrying automobile and truck frames. Hulick VS at 31. Still other 89-foot intermodal cars have received a second life as the foundation of TTX's innovative new “Uni-Level” cars

discussed above. *Id.* at 31. TTX also converted hundreds of bulkhead flatcars – which are less in demand for lumber shipments with the rise in popularity of the centerbeam car – into flatcars capable of hauling a variety of steel products to meet growing demand. And TTX is currently engaged in the redeployment of thousands of its doublestack cars in response to shifts in intermodal markets. As domestic container markets have shifted toward the use of 53-foot containers (instead of 48-foot containers), TTX has bought new 53-foot doublestack cars, while redeploying over 3,400 of its 48-foot platforms to date to meet the continued growth in shipments of 40-foot international containers. *Id.* at 32. TTX is also responding to the shift in domestic container size with a conversion program that will extend the platforms on TTX’s 48-foot all-purpose spine cars to accommodate 53-foot trailers and containers. *Id.*; Brown VS at 17-18. TTX has the unique blend of incentives and capabilities to facilitate the efficient redeployment of the railroad’s shared fleet of flatcars to keep pace with the evolving marketplace.

D. TTX’s Pooling Activities Yield Significant Capital Savings

The TTX flatcar pool generates significant capital savings as well. As noted above, the TTX pool achieves greater utilization from its flatcar assets and reduces the level of risk associated with investments in new equipment. TTX is thereby able to get more “bang for the buck” out of a given level of investment and justify greater investment than railroads acting individually. Reardon VS at 12; Wells VS at 4-5.

In addition to allowing more efficient deployment of capital, the billions of dollars that TTX has spent on new and redeployed equipment – \$9 billion since its inception and \$4.2 billion since 1994 alone – have freed the railroads’ own capital dollars for investment in other pressing needs on their networks. Reardon VS at 4; Wells VS at 8-9;

Brown VS at 15. As the Board well appreciates, railroad earnings have consistently been falling short of the cost of capital.²³ At the same time, the railroads' need for massive capital investment has continued unabated. Railroads face a constant struggle to find enough capital dollars to spend on programmed replacement of their core network, adding mainline capacity where needed to keep pace with traffic growth, building new intermodal and other terminals to meet evolving shipper needs, and acquiring new locomotives and rolling stock to serve numerous lines of business. Railroads routinely are unable to fund all of the capital projects that market needs warrant, and that their internal analyses indicate would be justified if funds were available.

TTX finances billions of dollars of equipment acquisitions independently, without any guarantee or capital infusion from the railroads. TTX maintains its own excellent credit rating and thereby obtains funds inexpensively through medium and long-term financings, in addition to its own cash flows from operations. TTX thus allows the railroads to remove "new flatcar capacity" from the list of priority projects competing for limited railroad funding sources, which permits other pressing railroad projects to proceed. Reardon VS at 4-5; Wells VS at 9; Brown VS at 12-15.

Although some alternative mechanisms for acquiring new rolling stock – such as leasing arrangements – might avoid up-front expenditures of railroad capital, none achieve all of the capital benefits of the TTX pool. Those mechanisms do not achieve the utilization benefits of the pool, and thus entail greater-than-necessary outlays of capital.

²³ See, e.g., Testimony of Honorable Roger Nober, Chairman of the Surface Transportation Board, Before the House Committee on Transportation and Infrastructure Subcommittee on Railroads Hearing on National Rail Infrastructure Financing Proposals (June 26, 2003), p. 2.

Moreover, lease obligations must be incurred directly by the railroads, burdening their financial statements.²⁴ In addition, acquiring cars by lease requires that railroads commit over the long term to a stream of future payments, which entails more risk than is associated with the TTX pool. The pool in essence allows railroads to “rent” cars at low rates for whatever period they need them – no matter how short – without having to make longer-term commitments (by lease or otherwise) to pay a stream of future rent for cars that might not be needed. Wells VS at 4-5, 11.

E. TTX’s Benefits Are More Important Than Ever in Today’s Railroad Environment

As the foregoing discussion demonstrates, changes in the rail industry since 1994 have not dampened the benefits that TTX generates. To the contrary, in an era when railroads face ever more acute needs to reduce operating costs, improve service, and make investments to accommodate intermodal and other traffic growth, TTX plays a more critical role in the industry than ever before.

1. All of the Facets of TTX’s Activities Remain Vital to Today’s Railroad Environment

Each of the benefits that TTX’s flatcar pool provides the railroad industry is as important today as it was in 1994, 1989, and 1974 . Railroads continue to interline very high percentages of their flatcar traffic with other railroads, and thus continue to depend on a shared pool of equipment. Traffic still shifts from railroad to railroad as a result of competitive circumstances as well as seasonal and other fluctuations, with the pool facilitating the flow of equipment in response to those shifts. Wells VS at 11-14.

²⁴ Equipment leases are included as liabilities in railroad financial statements and ratios, but costs for using TTX flatcars are not. Wells VS at 9.

At the same time, railroads continue to face intense pressures to reduce their costs while continuing to improve their service to shippers. These pressures are especially acute in many categories of business – such as intermodal, automotive, and forest products – that make heavy use of TTX's pool of flatcar equipment. TTX's role in reducing costs, improving utilization, achieving economies of scale and generally getting more productivity out of the capital and expense dollars the railroads spend on equipment has never been more important.

2. TTX Is Playing and Will Continue to Play an Especially Critical Role in Supporting Intermodal Growth

One of TTX's most important contributions to modern railroading is its role in facilitating the continued growth of intermodal transportation. As Thomas R. Brown, a recognized expert on intermodal transportation matters, explains, TTX has played a vital role in allowing railroads to develop and grow their intermodal business over the past three decades. Intermodal transportation has grown more than three-fold since 1974, and 25 percent in the last decade alone. TTX's investment in and efficient operation of intermodal flatcars has been an indispensable part of the railroads' successful efforts to expand this important source of traffic. Brown VS at 7; *see also* Reardon VS at 13-14; Wells VS at 6-7.

Sustaining this growth in intermodal traffic is vital to the future of the North American rail network. As Mr. Brown explains, intermodal traffic is projected soon to supplant coal as the largest source of railroad transportation revenues. Those revenues are vitally needed to assist railroads in their quest to achieve revenue adequacy and to support the extensive network of rail lines and train operations that allows cost-effective transportation services. Brown VS at 8.

Continued growth in rail intermodal will shift traffic from the Nation's highways, promising huge societal benefits. Congestion on the nation's highways is costing the country billions of dollars in reduced economic productivity and undermining the quality of life for every citizen who must share the gridlocked roads with burgeoning truck traffic. Building the needed highway capacity would be prohibitively expensive and practically impossible in many cases. Increased use of rail intermodal is the only sensible solution. And shifting traffic from truck to rail will have other collateral benefits, ranging from improved air quality to increased energy efficiency to reduced highway fatalities. Brown VS at 24-26.

Accommodating the anticipated growth in intermodal traffic will present many challenges for the rail industry, including the challenge of investing billions in additional mainline and terminal capacity. Without TTX's ongoing commitment to invest in the flatcars the industry needs to handle intermodal traffic, and improve the efficiency and utilization of that vital fleet, the railroads might not be able to capture and sustain this growth. Brown VS at 9-15.

IV. THE BOARD SHOULD APPROVE THE PROPOSED CHANGES IN THE TTX POOLING AGREEMENT AND CLARIFY TTX'S FLEXIBILITY TO ACT WITHIN THE SCOPE OF THAT AGREEMENT WITHOUT FURTHER BOARD APPROVAL

This application seeks Board authority to continue TTX's pooling of flatcars on the same terms and under the same regulatory framework that have applied for at least the past ten years. The proposed Pooling Agreement, the related Form A Car Contract, and the Form D Special Devices Contract that TTX asks the Board to approve are substantively identical to those that are currently in force. TTX proposes only three minor changes bearing on its pooling authority:

- TTX requests approval of its participants' decision to reinstate the initial 15-year term, one-year renewal, and withdrawal provisions of the 1974 Pooling Agreement, instead of the fixed, ten-year term authorized in 1994;
- TTX asks that the Board clarify TTX's flexibility to take actions within the scope of the Pooling Agreement (and the limitations imposed in 1989 on TTX's assigning and allocating cars) without the need to seek advance Board approval; and
- TTX seeks the Board's approval of a variety of minor, technical changes to the language of the Pooling Agreement to address developments since 1974.

Each of these modest requests is in the public interest.

A. The Board Should Allow TTX to Reinstate the Pooling Agreement's Original Duration and Withdrawal Provisions

The TTX flatcar pooling agreement originally approved by the ICC in 1974 provided for a initial term of 15 years, followed by automatic one-year renewals until the parties concluded that they wished to terminate the agreement. It also allowed parties to withdraw from the agreement upon twelve months' notice, following the expiration of the initial 15-year term. The ICC approved those provisions, consistent with its routine practice of approving other railroad equipment pools that had indefinite terms.²⁵

²⁵ See, e.g., *The Baltimore & Ohio R.R. – Pooling of Car Service Regarding Multi-Level Cars*, ICC Finance Docket No. 29653 (ICC served Aug. 19, 1981); *Railroad Car Service Pooling Application (RBL Pool)*, ICC Finance Docket No. 30607 (ICC served Sept. 26, 1983); *Railroad Car Service Pooling Application (Boxcars)*, ICC Finance Docket No. 30907, (ICC served Apr. 17, 1987); *AAR Boxcar Pool*, ICC Finance Docket No. 30969 (ICC served Sept. 30, 1987).

The flatcar pool's participants now desire to reinstate the duration and withdrawal provisions of the original agreement. Establishing an initial 15-year term with automatic one-year renewals serves legitimate interests, and as TTX's persistent public benefits indicate, should not raise any concerns. Moreover, 15 years of experience since 1989 demonstrate that past ICC rationales for imposing shorter terms are no longer valid.

When the ICC decided to place limits on the duration of TTX's authority – five years in 1989 and ten years in 1994 – it did so based on concerns that are no longer applicable in today's environment. In 1989, when the ICC limited TTX's reauthorization to five years, it had just completed a controversial reauthorization proceeding.²⁶ It explained that a shorter term of approval was appropriate because the “current market and regulatory climate in which Trailer Train operates is so dynamic.” *Trailer Train II*, 5 I.C.C.2d at 603. As of 1989, several developments were at too early a stage for the ICC to have certainty about their implications, including the evolution of equipment lessors and the then-ongoing reassessment of the ICC's car hire rules. The ICC was also influenced by the controversial nature of the 1989 proceeding. As the ICC explained in 1994, the term limitation imposed in 1989 “was based largely on the controversy and contentious issues surrounding that renewal.” *TTX III* at 4.

In 1994, when the ICC extended TTX's authority for an additional ten years, but declined to restore the original 15-year term, it explained that TTX operated in a “market and regulatory climate that [were] still, as they were 5 years ago, dynamic and changing.”

²⁶ The ICC revisited the TTX pool in 1989 not because the initial term expired, but because TTX was proposing amendments to the pooling agreement.

TTX III at 5. This judgment is understandable, since only five years had passed since the 1989 decision.

These considerations no longer counsel in favor of restricting the duration of TTX's pooling authority. We now have 15 years of experience with the TTX flatcar pool as approved in 1989. That pool has continued to generate extraordinary benefits, and there is no reason to expect market or regulatory changes to render TTX's benefits any less important in the future – to the contrary, they are more important than ever before. *See Brown VS* at 5-8; *Reardon VS* at 14-15. Moreover, the regulatory and market conditions in which TTX operates are far more settled today than in 1989 or 1994. Intermodal and other important rail transportation services continue to depend on TTX's role in the supply of flatcars. The independent car leasing market has flourished and provides a robust alternative to TTX in the supply of flatcars and other equipment. *Wells VS* at 22-23; *Kalt VS* at 12. And the Board now has almost a decade of experience under the car hire depreservation regime, which has not reduced the significant benefits available from TTX's pool of flatcars.

As TTX explained in 1994, and as Mr. Reardon reiterates in his testimony, the longer term of approval will enhance TTX's ability to achieve benefits for its participants. First and foremost, the need for TTX and its participants to participate in a formal Board reauthorization proceeding imposes significant burdens on the railroads and the Board. The recurrent need for TTX to prepare an application and supporting testimony and pursue the application through a potentially expensive approval process involves burdens that should not be borne unnecessarily. Moreover, the proposed provision for year-to-year renewals after the initial 15-year term expires creates a sensible mechanism for

ensuring continuity until the participants propose a new, longer term of fixed duration.²⁷

Reardon VS at 16.

Second, TTX will be in a better position to raise capital on more favorable terms if there is less regulatory uncertainty about the continued existence of the flatcar pool. As Mr. Reardon explains, financial institutions and other investors do not like uncertainty. Limiting TTX's term to ten years increases uncertainty and thus inevitably entails some degree of cost. A 15-year term would help to reduce lender uncertainty and permit TTX to meet its capital needs on a more favorable basis. *Id.*

Reinstating the original 15-year term and permitting automatic one-year extensions would not cause the Board to abdicate its regulatory responsibilities. TTX recognizes that its pooling authority would remain subject to reopening if the Board concludes – in light of future developments – that the operation of the pool was no longer serving the public interest. As in prior pooling cases, the Board approval of the TTX flatcar pool would presumably be “subject to the continuing right of any interested person to petition for reopening and reconsideration on the ground that the pooling operation has not resulted in better service to the public or economies of operation or that it has unduly restrained competition.” *TTX III* at 10. Moreover, the Board would presumably reserve the right to “modify its approval of the agreement by the imposition of additional or other terms as a condition of continuance of the pool, or to revoke its approval entirely if that action is

²⁷ In the interest of minimizing uncertainty, TTX's participants likely would seek Board approval for an additional fixed term before the initial 15-year term expires, rather than relying on one-year extensions. However, a provision for automatic extensions ensures continuity and avoids some of the uncertainty created by an agreement that terminates automatically. *See* Reardon V.S. at 16.

deemed warranted.” *Id.*²⁸ In light of this ongoing oversight jurisdiction, there is no justification for imposing limitations on the term of the TTX flatcar pool to which the parties have not assented.

B. The Board Should Confirm that Its Approval Extends to Activities Within the Scope of the Pooling Agreement

TTX seeks Board clarification of the requirement – articulated in the 1974 decision – that amendments or modifications to TTX’s flatcar Pooling Agreement be approved by the Board prior to their implementation. TTX does not contest this basic principle. TTX understands that any amendment or modification to the Pooling Agreement must be approved in advance under 49 U.S.C. § 11322. However, language in the 1974 decision creates unnecessary uncertainty over whether changes in TTX’s car contracts or other policies that arise during the course of the pool’s operation might, before taking effect, also require a formal application for Board approval and potentially protracted approval proceedings. As Mr. Reardon explains, this uncertainty unnecessarily constrains TTX’s ability to respond flexibly and creatively to changing circumstances affecting its participants’ need for flatcars. Reardon VS at 17-18; *see also* Wells VS at 23-25.

TTX therefore proposes that the Board establish, as a bright-line standard, that any amendment or modification to the TTX Pooling Agreement would require prior approval, but that changes in TTX’s car contracts and other policies within the scope of the Pooling Agreement as approved by the Board need not be approved in advance.²⁹ TTX

²⁸ See also, e.g., *AAR Boxcar Pool*, ICC Finance Docket No. 30969 (ICC served Oct. 7, 1987), p. 7.

²⁹ TTX would continue to adhere to the limitations on its authority to assign and allocate cars that were imposed in 1989 and clarified in 1994, unless the Board enters an

(footnote continued ...)

would continue to advise the Board of changes in rates and other terms of its car contracts,³⁰ and interested parties would remain free to complain to the Board that changes in TTX's policies (or other activities) are contrary to the public interest.

1. The Source of the Existing Uncertainty

In the 1974 proceeding, the ICC's Bureau of Enforcement recommended that "any changes, other than those relating to car-hire rates and charges, in [the TTX] pooling agreement[] or car contract[] should be treated as [a] new pooling agreement[] under section 5(1) and should thus require new Commission authorization." *Trailer Train I*, 347 I.C.C. at 882-83. The ICC disagreed, concluding that TTX "should be allowed, within the scope of our approval herein, to adjust the details of [its] operations in response to situations which cannot be anticipated at this time." *Id.* at 883. The ICC noted that earlier cases in which modifications to a pooling arrangement were held to require prior ICC approval involved changes that "can clearly be characterized as substantive in nature, and include entirely new service contracts or modifications in the basic policy by which pooled revenues are to be distributed." *Id.* Applying this principle, the ICC stated that "any such substantive changes in the policies or basic practices upon which initial ... approval is based do constitute an entirely new pooling plan for which Commission approval, prior to implementation, must be sought." *Id.* at 883-84. It further commented that "[a]ll changes which affect the substance

(... footnote continued from previous page)

order releasing TTX from those limitations. As noted below (at footnote 38), TTX does not believe that any valid purpose is served by maintaining those restrictions and it would support a Board order lifting them. However, TTX is not seeking such an order in this proceeding.

³⁰ TTX files with the Board changes to rates and other non-substantive aspects of its car contracts.

of [the] pooling arrangement or car contract and thus constitute a new pooling agreement will require” advance approval. *Id.* at 884.

2. The Requirement of Advance Approval for “Changes Which Affect the Substance” of the TTX Pool Is Unnecessarily Cumbersome and Counterproductive

As Mr. Reardon explains, this standard creates substantial uncertainty for TTX. It is clear that some changes in TTX’s car contracts, such as changes in its usage charges, do not amount to “changes which affect the substance” of the pool. However, it is unclear how this standard would apply to other types of changes in its car contracts and distribution policies that TTX might in the future conclude are appropriate in order to maximize the efficiency of the pool’s operations or achieve the other goals of the pooling agreement. This uncertainty hampers effective and timely responses to market needs, as well as anticipation of future needs, through the adjustment of TTX’s car contracts and other policies within the scope of the Pooling Agreement. Commencing a Board proceeding to obtain prior approval before a change can be implemented is certain to entail considerable expense and create significant delay. On the other hand, TTX would not be prepared to proceed without approval if there were a serious question whether a change would be regarded as “affecting the substance” of the pool under the language of the 1974 decision. *Reardon VS* at 17; *Wells VS* at 24.

As a result, potentially beneficial adjustments in the way TTX operates the flatcar pool may be chilled by continued adherence to the language of the 1974 Decision. TTX and its participating railroads might, for example, be deterred from considering changes in TTX’s distribution model even were they to hold potential for improving still further the availability of pool cars when and where needed to meet railroads’ traffic peaks. TTX could best serve its railroad members and all parties interested in the most efficient and

cost-effective car supply if it had the flexibility to take action within the scope of the Pooling Agreement without fear that its course of action would impermissibly go to the “substance” of the pool. Reardon VS at 17; Wells VS at 24.³¹

TTX submits that the language of the ICC’s 30-year-old decision that creates the current uncertainty arises from circumstances that are no longer applicable in today’s regulatory environment. The 1974 decision was rendered at a time when the ICC was accustomed to deep and probing regulatory involvement in the detailed workings of railroad car supply matters. Car hire rates were prescribed and car service rules were a matter of frequent and close regulatory scrutiny.³² With the passage of the Staggers Act and a general shift toward reliance on consensual, marketplace mechanisms, the Board has exercised its regulatory authority in a manner that affords parties greater flexibility to adjust their behavior to marketplace developments, against the backdrop of potential Board involvement as appropriate.

In addition, in 1974 the TTX flatcar pool was new. The 1974 decision was issued on a record that reflected no experience with the operation of that pool, and the ICC

³¹ The problem TTX faces is somewhat analogous to that confronted by Union Pacific and CNW in the mid-1990’s. Those carriers were so closely aligned (financially and operationally) that further collaborations posed a risk of moving them across the line into an unauthorized control relationship. To overcome those inhibitions, the railroads sought the ICC’s approval of a control relationship so that they would have the freedom to collaborate in flexible ways without the need for further approval. The ICC approved common control and rejected proposed alternatives that would have left in place the “‘chilling’ effect” caused by the uncertain “line into unauthorized common control” and thereby inhibited potential efficiency-enhancing coordinations between the applicants. *Union Pacific Corp., Union Pacific R.R. & Missouri Pacific R.R. – Control – Chicago & North Western Transportation Co. & Chicago & North Western Ry.*, ICC Finance Docket No. 32133 (ICC served Mar. 7, 1995), pp. 61-62.

³² See, e.g., *Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules, and Practices*, 362 I.C.C. 844 (1980).

might therefore have sensibly been reluctant to authorize changes in the pool's car contracts and policies without requiring additional proceedings. Even so, the ICC recognized that TTX "should be allowed, within the scope of our approval herein, to adjust the details of [its] operations in response to situations which cannot be anticipated at this time." 347 I.C.C. at 883. Today, of course, the Board has 30 years of experience, which demonstrates the extraordinary public benefits of TTX's pool and the lack of any potential competitive concern associated with the operation of TTX within the scope of the Pooling Agreement.

3. The Board Would Have Ample Opportunity to Address Any Concerns Regarding Future Changes

As discussed above, TTX expects the Board to retain jurisdiction to consider whether future changes in TTX's car contracts or policies cause anticompetitive harm or no longer serve the public interest. *See* pages 41-42, above. Against this backdrop, no purpose would be served by requiring prior approval for potential future evolutionary changes in the way the TTX pool is operated within the scope of the Pooling Agreement. Such changes would not alter the terms of TTX's dealings with any third party; the only parties to TTX's Form A Car Contract and TTX's related policies are TTX and its participants, all of which are applicants here. TTX would of course seek advance approval for any change in the Pooling Agreement itself.³³ In addition, as it has in the past, TTX would continue to inform the Board of changes in the underlying Form A Car Contract, which reflects TTX's car distribution policies. Although certain details of those changes – such as TTX's specific

³³ TTX understands this obligation to extend to any practice that would be inconsistent with the agreement – and thus result in a "fundamental alteration of the nature and scope of [the] pooling agreement," *see Atlas Van Lines – Pooling*, 127 M.C.C. 799 (1983) – even if the agreement were not formally amended.

rate levels – may warrant confidential treatment on a case-by-case basis, there would be no impediment to the Board’s or any affected party’s raising concerns about future changes in TTX’s pooling activities.

In similar circumstances, the ICC has found that advance approval of changes in a pool’s rules and procedures is not required even when those changes might be regarded as “substantive.” For example, in *AAR Boxcar Pool*,³⁴ the ICC relied on the ability of interested parties to petition for reopening to conclude that final approval of the pool should not be delayed pending the applicants’ report to the ICC on “rules and procedures developed by the Executive Committee to govern contributions to the pool.” Slip Op. at 6. The ICC also approved provisions for “the creation of sub-pools” without requiring that the creation of such sub-pools receive further approval. *Id.* at 3, 5. And in response to a suggestion by the Department of Transportation that the “functions of the pool operator and other entities be clarified before the pool is approved,” the ICC determined to “leave it to the applicants to allocate responsibilities among the entities in the pool in a manner that will best meet their goals.” *Id.* at 5.

C. The Proposed Technical Changes in the TTX Flatcar Pooling Agreement Are in the Public Interest

In connection with the proposed extension of the TTX flatcar pool, the pool’s participants have updated the language of the Pooling Agreement – which dates to 1974 – to

³⁴ *Railroad Car Service Pooling Application (Boxcars)*, ICC Finance Docket No. 30969 (ICC served Oct. 9, 1987).

reflect a variety of external developments. These updates are all technical in nature and do not alter the substance of the agreement.³⁵

First, to reflect TTX's current corporate name – which was changed in 1991 – the new agreement substitutes “TTX” for “Trailer Train.” It also uses the current address for TTX's corporate offices. Second, the amended agreement updates a reference (in Section 1.2) to the percentage of TTX's stock owned by its participating carriers. Third, the amended agreement updates various references to reflect the enactment of the Interstate Commerce Commission Termination Act and the creation of the Board. Fourth, the amended agreement deletes references to TTX's original “subordination” and “note purchase” agreements, which are no longer in effect.³⁶ Finally, the amended agreement adds language (in Section 1.1) recognizing that TTX's participants are engaged in, and their pooling applies to, international as well as wholly domestic rail transportation.³⁷

V. REAUTHORIZING TTX AND CLARIFYING TTX'S AUTHORITY WILL NOT “UNREASONABLY RESTRAIN COMPETITION”

Under 49 U.S.C. § 11322, the Board may approve TTX's flatcar pool if it concludes that the pool will not “unreasonably restrain competition.” The ICC has consistently found that the TTX flatcar pool is pro-competitive rather than anticompetitive. Experience over the past ten years confirms the ICC's previous findings.

³⁵ Although non-substantive changes such as these likely do not require Board approval – see *Trailer Train I*, 347 I.C.C. at 883-84 – we are presenting them here so that the Board has before it a full understanding of the proposed scope of TTX's pooling authority.

³⁶ The last of TTX's notes matured and were redeemed in 1999.

³⁷ Cf., e.g., *Ferrocarril Mexicano, S.A. de C.V. – Pooling of Car Service Regarding Multilevel Cars*, Finance Docket No. 29653 (Sub-No. 8) (STB served Jan. 19, 2001).

A. The ICC Has Consistently Found That the TTX Flatcar Pool Is Not Anticompetitive

The ICC's three prior decisions approving the TTX flatcar pool establish that the pool is not anticompetitive. In 1974, the ICC found "ample support in the evidence for a conclusion that the Trailer Train pooling agreement ... will not unduly restrain competition between the participating railroads in the provision of car service." *Trailer Train I*, 347 I.C.C. at 905. In 1989, the ICC examined very closely assertions that certain aspects of TTX's functions were anticompetitive and squarely rejected those contentions. The ICC specifically found that TTX's purchasing of flatcars posed "no potential harm from monopsony power" (*Trailer Train II*, 5 I.C.C.2d at 574) and that TTX "could not 'act as a medium for monopolization of intermodal transportation markets even if the railroads so wished'" (*id.* at 585).³⁸ In 1994, no party raised any competitive concerns, and the ICC again reaffirmed that continued authorization of TTX's flatcar pool "will not unreasonably restrain competition." *TTX III* at 4.

³⁸ The limitations placed on TTX's ability to assign and allocate cars in *Trailer Train II* did not reflect any conclusion by the ICC that TTX's flatcar pool would be anticompetitive absent those limitations. Rather, those limitations reflected the ICC's doubts about the benefits that would flow from TTX's involvement in the leasing of flatcars, relative to "those obtainable from greater participation by third party lessors in a competitive leasing market." 5 I.C.C.2d at 598; *see also id.* at 562 (conclusion that TTX should not engage in "assignment of cars or ... purchase of cars for allocation" reached "for a reason different from DOJ's primary monopsony arguments"). Importantly, moreover, those limitations were established at a time of significant uncertainty regarding the development of third-party leasing markets and the anticipated deregulation of car hire. *Id.* at 562-63, 597-99. TTX believes that experience over the past 15 years – including the development of robust third-party leasing alternatives and the potential for TTX to offer a superior competitive alternative if freed to engage in assignment and unrestricted allocation – no longer justify limiting TTX's authority in this manner. Nevertheless, as stated above (at footnotes 4 and 29), TTX is not asking the Board to remove those limitations.

B. There Is No Basis for Revisiting the Failed Theories of Competitive Harm

Nothing has changed that would call into question the wisdom of the ICC's conclusions that TTX's flatcar pool is not anticompetitive. Professor Joseph P. Kalt, one of America's leading industrial organization economists, explains that the competitive circumstances today rule out any potential adverse competitive effects of the TTX flatcar pool. The basic structure of the TTX flatcar pool, the incentives of its participants, and the structure of the marketplaces in which TTX and its participants operate ensure that the TTX flatcar pool will be pro-competitive rather than anticompetitive. Experience of the past ten (and indeed the past 30) years resoundingly confirms this conclusion.

1. The TTX Flatcar Pool Is Inherently Pro-Competitive

As Professor Kalt explains, several key features of the TTX flatcar pool ensure that it will continue to play a pro-competitive role in railroad flatcar supply. First, TTX's participating railroads operate in highly-competitive transportation markets, where they depend on the availability of efficient and low-cost equipment to compete against other modes – especially trucks – as well as against other railroads. The railroads are counting on growth in intermodal, automotive, and other traffic to sustain their networks into the future, and thus depend on an expanding fleet of cars and a healthy equipment supply industry – not one weakened by monopsonistic abuse. Brown VS at 27-28.

Second, alternative channels for the supply of railroad flatcars have become well established since 1989, providing outlets that preclude any exercise of monopsony power by TTX and creating a strong impetus for TTX to continue to generate significant efficiency and other benefits for its customers. Unlike in 1989, when the car leasing business was relatively undeveloped, at least in the intermodal arena, there exists today a

significant community of large, well-financed lessors of intermodal and other railroad freight cars eager to step in to supply railroads' car needs if they are not met efficiently through other sources. *See Wells VS at 22-23; Kalt VS at 11-12.*

Third, the TTX flatcar pool provides its participants with a means of meeting their flatcar needs that is entirely optional. TTX's participants have no obligation to use TTX flatcars, much less to do so exclusively.³⁹ TTX's participants have in fact availed themselves of the option of obtaining flatcars through other channels when it has suited their interests. *Wells VS at 23; Brown VS at 27-28.*

This freedom – coupled with the intensely competitive environment in which TTX's participants operate – ensures that TTX's participating railroads have strong incentives to seek out the best source of car supply and that their continued participation in the TTX pool reflects the pro-competitive benefits TTX achieves rather than any adverse effect on competition. *Kalt VS at 15-16; Brown VS at 27; Reardon VS at 8; Wells VS at 20.* TTX will remain an important part of the railroad's flatcar supply arrangements only so long as it continues to generate efficiencies and provide important benefits to its participants and their customers. As Professor Kalt explains, any attempt on TTX's part to wield market power (or monopsony power) would hinge on restrictions in the supply of flatcars, which would swiftly be undercut by each railroad's strong incentives and ample opportunities to provide for their equipment needs through other channels. *Kalt VS at 13-15.*

³⁹ *See Pooling Agreement § 7.11(c)* (“No Railroad Participant shall by reason of participation in this flat car pooling plan, be required to modify its individual car ownership program or to load pool cars preferentially to its own.”).

2. Experience Has Shown That There Is No Basis for the Competitive Concerns That Were Raised and Dismissed in 1989

Experience during the past ten years – and indeed throughout TTX’s existence – confirms that TTX has pursued the railroads’ pro-competitive objectives. As Mr. Brown explains, TTX has been an essential catalyst in the ongoing intermodal revolution. See Brown VS at 6-21. Since 1994 it has invested approximately \$2.3 billion in new intermodal flatcars, facilitating continued rapid growth in intermodal volumes. See Wells VS at 7. TTX invested more than \$1.3 billion more in new flatcars of other types during the same period. *Id.* Railroads have used TTX’s equipment (as well as non-TTX flatcars) to handle growing volumes of traffic in each of the major categories served by TTX’s flatcars. In 2002, railroads in the United States and Canada handled 25 percent more rail intermodal shipments (COFC/TOFC) than in 1994, and U.S volumes were about three times the volumes of 1974. Wells VS at 6-7.

Not surprisingly, TTX’s continuing role in the industry has prompted not a single complaint. Rather, there is a widespread consensus that TTX serves as a vital mechanism for harnessing efficiency, helping railroads grow their traffic base, and in the process increasing demand for railroad flatcars.

3. There Is Even Less Basis for Concern About “Monopsony” Than in 1989 or 1994

Basic characteristics of market structure – changes in market structure since 1994 – confirm that there is far less basis for theoretical concern about TTX’s potential “monopsony” power than there was in 1989 or 1994, when the ICC rejected such claims.

First, it is even clearer today that “TTX has no monopsony power,” as the ICC found in 1989. 5 I.C.C.2d at 582. In the four years preceding 1989, TTX’s share of all

industry flatcar purchases was approximately 64 percent. Its share of purchases of all railroad freight cars (excluding tank cars) – which DOJ asserted, and the ICC agreed, was the relevant economic market⁴⁰ – averaged approximately 31 percent. As of the ICC’s 1994 proceeding, TTX’s share of flatcar purchases had increased to 85 percent, and its share of all cars (excluding tank cars) was 41 percent, and yet there was still no cause for monopsony concern.

As shown in the table below, TTX’s share of all new freight car acquisitions is now lower than it was in 1994 or 1989. Over the past four years, TTX has acquired on average only 17 percent of new cars of all types (excluding tank cars).⁴¹ In part this reflects a modest decline in TTX’s share of flatcar purchases during those years. Most significantly, however, the decline reflects significant increases in the numbers of other car types being acquired by the railroad industry. From 1986 through 1993, the industry acquired on average only 9,962 freight cars other than flatcars and tank cars each year. From 1994 to 2002, by contrast, on average 31,535 such cars were acquired each year, a 217 percent increase. Kalt VS at Figure 5. As Professor Kalt explains, even if TTX accounted for 100 percent of all acquisitions of railroad flatcars, its share of all freight car acquisitions would still be only 32 percent.⁴² Such a share is below the threshold that could conceivably raise monopsony concerns. Kalt VS at 15.

⁴⁰ See 5 I.C.C.2d at 577.

⁴¹ For intermodal cars, many of which are comprised of multiple, articulated segments (or “units”), this figure is based on units rather than cars.

⁴² TTX’s purchases would be an even smaller percentage of carbuilder *capacity*. Kalt VS at Figure 5.

Table⁴³

	TTX Share of Flatcar Purchases	TTX Share of All Freight Cars (excluding tank cars)	Flatcar Purchases as a Percentage of All Freight Car Purchases (excluding tank cars)
1985-1988	64.0%	30.7%	47.9%
1990-1993	84.6%	41.4%	49.0%
1999-2002	52.4%	17.0%	32.5%

Moreover, in the 15 years since concerns about monopsony were last raised, the railroad carbuilders have consolidated and diversified. Today, the four large North American builders of railcars – Greenbrier, Johnstown America, National Steel Car (“NSC”), and Trinity Rail Group (“TRG”) – each manufacture an array of car types. For example, Greenbrier, which in 1989 predominantly manufactured doublestack equipment that it sold to TTX, now manufactures a wider array of equipment, including hoppers, gondolas, and boxcars, and TTX’s orders account for only a small fraction (on the order of ten percent) of its total potential capacity. TRG, NSC, and Johnstown America are even more broadly diversified. *Hulick VS* at 12; *Kalt VS* at 14.⁴⁴

4. TTX Could Not Facilitate the “Monopolization” of Any Transportation Market

In 1989, various parties made a half-hearted attempt to suggest that TTX might operate as a mechanism for monopolizing intermodal transportation markets by restricting the output of certain car types. *Trailer Train II*, 5 I.C.C.2d at 582-85. As the ICC

⁴³ Source: Kalt VS at Figure 5.

⁴⁴ See also Tom Murray, “*Risky Business*,” TRAINS MAGAZINE (Jan. 2004), pp. 64-65 (describing each major carbuilder’s diverse product lines and noting that each has substantial excess capacity, with Greenbrier having the capacity to produce 10,000-12,000 cars annually; Johnston 15,000 cars; NSC 15,000 cars; and TRG over 23,000 cars).

found in 1989, there is no basis for such concerns. Intermodal and the other arenas in which TTX equipment is used are robustly competitive. TTX has served as a mechanism for expanding the car fleets that the railroads use to provide services in those markets. TTX's fleet of flatcars has grown significantly since 1994, as has the volume of traffic handled using TTX's car types. At the same time, rate reductions since 1994 have reduced railroads' payments to TTX by over \$650 million, further confirming TTX's objective to increase car utilization rather than restrict it. Wells VS at 21; Kalt VS at 16. Railroads could not afford to use TTX as a means of restricting output without sacrificing traffic, and profits, to trucks and other modes.⁴⁵

C. Even If Some Parties Had Hypothetical Competitive Concerns, They Could Be Addressed through the Board's Ongoing Oversight

Finally, if despite TTX's strongly pro-competitive record and its inability to harm competition some parties nevertheless were to express competitive concerns, such views would not warrant disapproval of the TTX flatcar pool. Rather, such concerns could readily be addressed through the Board's ongoing jurisdiction over the pool. As discussed above, TTX expects that – as the ICC did in 1989 and 1994 – the Board would make its approval of TTX's flat car pool “subject to the right of any interested person to petition for reopening if the operation of the pool unduly restrains competition.” *Trailer Train II*, 5 I.C.C.2d at 605. If under future conditions parties claim that some aspect of TTX's pooling activities comes to have anticompetitive effects – a prospect TTX believes is not possible –

⁴⁵ As Professor Kalt explains, even if there were pockets of transportation service where railroads did not face intense competition from other modes, there would be no way for TTX to constrain output in those pockets without restricting supply of the flatcars needed by railroads in numerous other markets to grow their business. Kalt VS at 16-17.

the Board could step in at that time to address those concerns and determine whether any changes in TTX's pooling arrangements are warranted. TTX would stand ready to address any such concerns in a cooperative fashion.

VI. THE BOARD SHOULD ACCEPT TTX'S APPLICATION AND ESTABLISH A PROCEDURAL SCHEDULE

We respectfully request that, as soon as reasonably possible, the Board publish a notice of this application in the Federal Register.⁴⁶ A suggested form of Notice is attached as Exhibit E. We suggest that comments on the application (including argument and evidence supporting or opposing the application) be due 60 days later, with applicants' rebuttal in support of the application (if any) due 45 days thereafter. We do not anticipate that formal hearings will be necessary. We would, of course, prefer that the Board approve the application as soon after the close of evidence as its schedule allows, but we would ask that the Board issue a decision no later than September 1, 2004, in advance of the October 1, 2004 expiration of TTX's existing authority.

The proposed schedule provides interested persons a full and fair opportunity to comment on TTX's application. The application is straightforward. It seeks the continuation of a Board-approved pool that has been in operation for 30 years. The proposed schedule, the format of which is modeled on the Board's procedures for rail merger cases (*see* 49 C.F.R. § 1180.4), provides ample time for parties to address any issues that they may wish to raise.

⁴⁶ The pooling statute provides that the Board may commence a proceeding "on application." 49 U.S.C. § 11322(c).

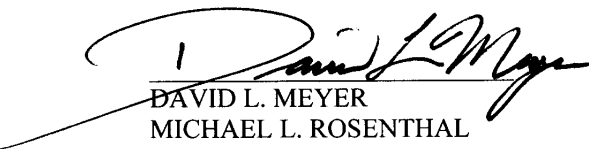
The proposal presented in this application and the actions to be taken pursuant to a Board order approving it do not constitute a major Federal action within the meaning of the National Environmental Policy Act, 42 U.S.C. §§ 4332 *et seq.*, as defined by 40 C.F.R. § 1508.18 and applied by the Board in 49 C.F.R. § 1105.5. Nor does the requested action by the Board constitute a major regulatory action within the meaning of the Energy Policy and Conservation Act, 42 U.S.C. § 6362(b) or the Board's regulations in 49 C.F.R. Part 1105.

CONCLUSION

The TTX flatcar pool has contributed significantly to the efficiency of the North American rail network and the growth of intermodal, automotive and other categories of rail traffic over past three decades. As this application demonstrates, there are compelling justifications for continuing that pool into the future, as requested by the nine railroads that participate in TTX and a broad cross-section of the shippers and others that benefit from the pool's operation. In order to allow TTX and its participating railroads to continue providing the substantial public benefits of the TTX flatcar pool, TTX and the applicant railroads request that the Board (1) commence a proceeding to consider this application and establish a procedural schedule providing for a decision no later than September 1, 2004; (2) approve the proposed pooling arrangement as reflected in the proposed amendments to the TTX Pooling Agreement (attached as Exhibit A) and TTX's related Form A Car Contract (Exhibit C) to which the carriers have assented; and (3) confirm that TTX need not return to the Board with a new application in order to modify its car contracts and other policies within the scope of the Pooling Agreement.

Respectfully submitted,

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Attorneys for Applicants

January 6, 2004

VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK) ss

ANDREW F. REARDON, President and Chief Executive Officer of TTX
Company, being duly sworn, deposes and says that he has read the foregoing statement, knows
the contents thereof and that the same are true as stated.


ANDREW F. REARDON

Sworn to and subscribed before me
this 5th day of January, 2004.


Notary Public



My Commission expires May 26, 2007.

A

EXECUTION

TTX POOLING AGREEMENT

THIS AGREEMENT, dated as of the 1st day of October, 2004, by and among the railroad companies, the trustees of certain railroad companies, signatories hereto (hereinafter collectively called the "Railroad Participants"), and TTX Company (formerly known as Trailer Train Company and hereinafter called "TTX"), 101 North Wacker Drive, Chicago, Illinois 60606.

In consideration of their mutual and reciprocal undertakings, the Railroad Participants agree with each other and with TTX as follows:

ARTICLE I - THE PARTIES

1.1. All of the Railroad Participants are common carriers engaged in the transportation of property by railroad in interstate commerce, between points in the United States, or between points in the United States and places in a foreign country, subject to the provisions of Part A of Title 49 of the United States Code. In such operations, they transport freight in railroad cars, including flat cars, and compete with one another in providing such transportation service.

1.2. TTX was incorporated under the laws of the State of Delaware on November 9, 1955. Currently, 100% of its capital stock is owned directly or indirectly by Railroad Companies as hereinafter defined or by their affiliates for the benefit of said Railroad Companies. It presently is a car owning company furnishing flat cars to Railroad Companies under individual contracts with each and provides related procurement, financing and management services with respect thereto.

ARTICLE II - DEFINITIONS

2.1. "Railroad Company" means a common carrier by railroad as defined in Section 10102(5), of the Act.

2.2. The "Act" means Title 49 of the United States Code, including the Interstate Commerce Commission Termination Act, and the "STB" means the Surface Transportation Board.

2.3. "Car service" means those functions defined in Section 10102(2) of the Act, including the design, acquisition, financing, utilization, maintenance and accounting for the use of freight cars.

2.4. "Form 'A' Car Contract" and "Form 'D' Special Devices Contract" mean the forms of the instruments with those captions entered into individually between TTX and Railroad Companies, both as amended and supplemented.

2.5. "Shareholders' Agreement" means the instrument with that caption dated as of October 25, 1960, among TTX and its stockholders, as supplemented.

ARTICLE III - SURFACE TRANSPORTATION BOARD APPROVAL

3.1. This agreement is subject to approval by the STB of an application to be filed under the provisions of Section 11322 of the Act. The effective date of the agreement shall be 10 days after the STB's order expressly approving it shall have become final and legally effective.

ARTICLE IV - PURPOSE

4.1. The purpose of this TTX Pooling Agreement is to provide a means by which the Railroad Participants (including Railroad Companies not now signatories which shall later become participants), together with TTX, may lawfully agree to and jointly provide for the pooling of car service and the divisions of gross or net earnings as affected thereby with respect to railroad flat cars to the end that there shall be a pool or pools of such cars to be acquired, financed, managed, maintained, and accounted for by TTX so as to enlarge the flat car fleet and accomplish better service to the public and better utilization and economy.

ARTICLE V - THE BASIC UNDERTAKING

5.1. The Railroad Participants and TTX agree to pool car service of the Railroad Participants as provided herein, and to the divisions of their gross or net earnings as affected thereby, in the manner and subject to the terms, conditions and limitations hereinafter set forth.

5.2. To accomplish the pooling referred to in Section 5.1 hereof and to achieve the purpose expressed in Article IV hereof, the parties agree through the instrumentality of TTX:

- (a) To seek standardization of flat car types of improved utility and economy through the pooling of experience, information and services used or useful in the research, development, engineering and design of such cars;

- (b) To pool information concerning the present and estimated future requirements for such cars and car service of the individual Railroad Participants and thereby to develop programs for the joint purchase of a pool of such cars of particular types found to be needed;

(c) To purchase the number of flat cars of types found to be needed so as to achieve all available economies through such purchase programs;

(d) To obtain favorable equipment financing in the purchase of such cars through cooperative actions;

(e) To accomplish pooled management, control and accounting for the use of such cars and car service in order to obtain maximum utilization and better service to the public; and

(f) To pool the cost of the ownership, operation, and maintenance of such cars and to assess user charges which divide such cost equitably among the Railroad Participants, with due regard for return on investment and with provision for user adjustment refunds, as appropriate.

5.3. The parties expressly acknowledge that the agreement, undertakings and plans set forth herein will mutually benefit each of them and will enable them to improve car service to the members of the shipping public without any undue restraint on competition between them, or between them or any of them, and any other person.

ARTICLE VI - STUDIES OF FLAT CAR TYPES

6.1. Pursuant to this TTX Pooling Agreement, the Railroad Participants herewith undertake and agree to conduct through TTX studies, from time to time, and to consider the application of the terms of this agreement to particular types of flat cars.

ARTICLE VII - THE FLAT CAR POOLING PLAN

7.1. There shall be established a pool of general and special purpose flat cars of a standardized design or designs to be controlled and managed by TTX in accordance with the purpose of this TTX Pooling Agreement.

7.2. Railroad Companies which are now stockholders of TTX shall be Railroad Participants in this TTX Pooling Agreement. Any other Railroad Company which meets the participation requirements set forth herein shall be authorized to become a party to this agreement.

7.3. TTX shall be the instrumentality through which this agreement and pooling plan shall be carried out and the board of directors of TTX shall be vested with the authority necessary to accomplish that purpose.

7.4. Participation in this flat car pooling plan by any Railroad Company not as of the date hereof a stockholder of TTX shall be dependent upon compliance by each such Railroad Company desiring to participate with the following requirements:

(a) Being a signatory to this TTX Pooling Agreement and included within the scope of an order of the STB approving an application under Section 11322 of the Act with respect thereto;

(b) Becoming a stockholder of TTX through the purchase and continued ownership thereafter of not less than 500 shares of the capital stock of TTX (except to the extent to which the stockholders or the board of directors of TTX shall determine that ownership of lesser number of shares shall be required);

(c) Being a signatory to such Form "A" Car Contract and such Form "D" Special Devices Contract, as is defined herein, each as amended and supplemented, as the board of directors of TTX shall from time to time have established; and

(d) Being a signatory of the Shareholders' Agreement, as defined herein.

7.5. Any Railroad Company which desires to become a party hereto and which is not as of the date hereof a stockholder of TTX shall, if it desires to purchase the required number of shares of capital stock from TTX, be afforded the opportunity, on application therefor, to purchase said shares from TTX at a reasonable, nondiscriminatory and competitive price and upon such terms and conditions of payment as shall be fixed by the stockholders or the board of directors of TTX.

7.6. Each Railroad Company signatory agrees with each other signatory to comply with the terms and conditions of this agreement.

7.7. The board of directors of TTX shall determine, from time to time, the number, type, and design characteristics of the flat cars to be acquired by TTX and other matters pertaining to their design, purchase, financing, utilization, maintenance, accounting and methods to be employed for the division of gross or net earnings.

7.8. Each Railroad Participant, without limitation upon its right to secure any or all of its requirements for flat cars by other means, shall:

(a) Furnish to TTX such information relative to the types of flat cars under consideration for purchase by TTX as TTX may reasonably request; and

(b) Furnish to TTX such other information as it may reasonably request concerning utilization of the type of flat cars to which this agreement relates, including such Railroad Participant's anticipated requirements of such car types.

7.9. Flat cars to be included in the pool shall be purchased and owned or leased by TTX, using such methods of financing as shall be available to it.

7.10. Rates and charges and orders and regulations relative to cars in the flat car pool shall be fixed, from time to time, by the board of directors of TTX in accordance with the following principles:

(a) It shall be the policy of TTX to maintain per diem, mileage and other charges at the lowest level required to meet TTX's ordinary and necessary costs and expenses, including, as appropriate, return on investment, to maintain a financial position enabling it to finance flat car acquisitions on reasonable terms and to keep the cars in proper condition for operation at the highest point of efficiency and to accumulate retained earnings adequate to support continued reasonable enlargement of the number of cars in the pool, to that number found to be needed. It is the intention of the parties to the TTX Pooling Agreement that the total compensation paid to TTX by Railroad Participants shall be no greater than consistent with the foregoing policy;

(b) Rates and charges, orders and regulations shall be observed by all Railroad Participants in the flat car pooling plan;

(c) With such exceptions as the board of directors of TTX may from time to time prescribe, all detention and movement of cars on a Railroad Participant's line will be subject to rental charges;

(d) Charges shall include a per diem charge and/or a rate or rates for each mile of movement of such car, whether loaded or empty, on the line of a Railroad Participant; and

(e) To the extent that per diem, mileage and other charges exceed the criteria set forth in subparagraph (a) hereof, such charges may be subject to adjustment, referred to as an "adjustment refund", as provided in this subparagraph (e). An adjustment refund for any year may be determined at the beginning of the following year by the board of directors of TTX and be expressed as a percentage of the amount by which all car-hire compensation earned by TTX during such prior year shall exceed the ordinary and necessary expenses of operation, together with the net earnings to be retained by it, for such year. In determining the amount of any such adjustment refund, said board of directors may take into account such other factors as in their judgment shall be appropriate. The adjustment refund, if and to the extent declared by the board and approved by the STB, shall be paid to Railroad Participants as an adjustment of per diem, mileage and other charges paid by them for the use of TTX cars during such prior year, such amount to be divided among them on the basis of proportionate car utilization by each. For the purposes of this

paragraph, proportionate car utilization shall be the ratio which the total amount paid by each Railroad Participant as car-hire compensation shall bear to the total received by TTX from all Railroad Participants as car-hire compensation.

7.11. The management of the pool flat cars will be under the direction of TTX and administered under the following general rules as more particularly set forth in the Form "A" Car Contract, as amended and supplemented:

(a) No one Railroad Participant shall have any preferred right as compared with any other Railroad Participant to the use of any pool flat cars, except subject to special arrangements approved by TTX or as a consequence of car movement directives by TTX;

(b) Any Railroad Participant having possession of a pool flat car may use it for loading to any point on any line in the national rail system in the United States and such other points as may be approved by TTX; and

(c) No Railroad Participant shall by reason of participation in this flat car pooling plan, be required to modify its individual car ownership program or to load pool cars preferentially to its own.

ARTICLE VIII - COUNTERPARTS

8.1. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each counterpart shall be signed by TTX and by one or more Railroad Participant.

ARTICLE IX - DURATION

9.1. This Agreement shall take effect on October 1, 1974, and shall continue in effect for an initial period of fifteen (15) years. Thereafter, this agreement shall continue in effect for a first additional term of five (5) years from October 1, 1989, a second additional term of ten (10) years from October 1, 1994, and a third additional term of fifteen (15) years from October 1, 2004, and thereafter shall be automatically extended for successive one year periods until terminated by agreement of the parties. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

ARTICLE X – WITHDRAWAL

10.1. Following expiration of the third additional term provided hereinabove, any of the railroad participants, a party hereto or which shall become a party hereto, shall have the right to withdraw from this Agreement upon not less

than twelve (12) months written notice of its intention to do so given to each other party, provided that such withdrawal shall not relieve it from any obligation as to which it may (either directly or indirectly) be jointly, severally or contingently liable hereunder.

IN WITNESS WHEREOF, the Railroad Participants and TTX have caused this Agreement to be signed by their duly authorized officers as of the day and year first above written.

TTX COMPANY

By

Attest:

Title:

Railroad Participant

By _____

Attest:

Title: _____

B

REDLINED VERSION

EXECUTION

TRAILER TRAIN~~TTX~~ POOLING AGREEMENT

THIS AGREEMENT, dated as of the 1st day of October, ~~2004~~¹⁹⁷⁴, by and among the railroad companies, the trustees of certain railroad companies, signatories hereto (hereinafter collectively called the "Railroad Participants"), and ~~Trailer Train~~TTX Company (formerly known as Trailer Train Company and hereinafter called "~~Trailer Train~~TTX"), ~~300 South~~ 101 North Wacker Drive, Chicago, Illinois 60606.

In consideration of their mutual and reciprocal undertakings, the Railroad Participants agree with each other and with ~~Trailer Train~~TTX as follows:

ARTICLE I - THE PARTIES

1.1. All of the Railroad Participants are common carriers engaged in the transportation of property by railroad in interstate commerce, between points in the United States, or between points in the United States and places in a foreign country, subject to the provisions of Part ~~I-A~~ of Title 49 of the United States Code ~~the Interstate Commerce Act~~. In such operations, they transport freight in railroad cars, including flat cars, and compete with one another in providing such transportation service.

1.2. ~~Trailer Train~~TTX was incorporated under the laws of the State of Delaware on November 9, 1955. Currently, ~~100~~^{97.56}% of its capital stock is owned directly or indirectly by Railroad Companies as hereinafter defined or by their affiliates for the benefit of said Railroad Companies. It presently is a car owning company furnishing flat cars to Railroad Companies under individual contracts with each and provides related procurement, financing and management services with respect thereto.

ARTICLE II - DEFINITIONS

2.1. "Railroad Company" means a common carrier by railroad as defined in Section ~~1, Part I~~ 10102(5), of the ~~Interstate Commerce Act~~.

2.2. The "Act" means Title 49 of the United States Code, including the Interstate Commerce Commission Termination Act, and the "~~STB~~Commission" means the Surface Transportation Board ~~Interstate Commerce Commission~~.

2.3. "Car service" means those functions defined in Section ~~10102(2)~~ (+0) of the Act, including the design, acquisition, financing, utilization, maintenance and accounting for the use of freight cars.

2.4. "Form 'A' Car Contract" and "Form 'D' Special Devices Contract" mean the forms of the instruments with those captions entered into individually between ~~Trailer Train~~TTX and Railroad Companies, both as amended and supplemented.

2.5. "Shareholders' Agreement" means the instrument with that caption dated as of October 25, 1960, among ~~Trailer Train~~TTX and its stockholders, as supplemented.

2.6. ~~"Subordination Agreements" means collectively those instruments with the caption "Subordination Agreement", identical in content, entered into by Trailer Train~~TTX and its individual stockholders as of May 15, 1963.

2.7. ~~"Note Purchase Agreement" means an instrument with that caption dated as of January 1, 1967, among Trailer Train~~TTX and those of its stockholders listed in Schedule A thereto, as supplemented.

ARTICLE III - ~~COMMISSION SURFACE TRANSPORTATION BOARD~~ APPROVAL

3.1. This agreement is subject to approval by the ~~Commission~~STB of an application to be filed under the provisions of ~~Section 5(1)~~Section 11322 of the Act. The effective date of the agreement shall be 10 days after the ~~Commission's~~STB's order expressly approving it shall have become final and legally effective.

ARTICLE IV - PURPOSE

4.1. The purpose of this ~~Trailer Train~~TTX Pooling Agreement is to provide a means by which the Railroad Participants (including Railroad Companies not now signatories which shall later become participants), together with ~~Trailer Train~~TTX, may lawfully agree to and jointly provide for the pooling of car service and the divisions of gross or net earnings as affected thereby with respect to railroad flat cars to the end that there shall be a pool or pools of such cars to be acquired, financed, managed, maintained, and accounted for by ~~Trailer Train~~TTX so as to enlarge the flat car fleet and accomplish better service to the public and better utilization and economy.

ARTICLE V - THE BASIC UNDERTAKING

5.1. The Railroad Participants and ~~Trailer Train~~TTX agree to pool car service of the Railroad Participants as provided herein, and to the divisions of their gross or net earnings as affected thereby, in the manner and subject to the terms, conditions and limitations hereinafter set forth.

5.2. To accomplish the pooling referred to in Section 5.1 hereof and to achieve the purpose expressed in Article IV hereof, the parties agree through the instrumentality of ~~Trailer Train~~TTX:

(a) To seek standardization of flat car types of improved utility and economy through the pooling of experience, information and services used or useful in the research, development, engineering and design of such cars;

(b) To pool information concerning the present and estimated future requirements for such cars and car service of the individual Railroad Participants and thereby to develop programs for the joint purchase of a pool of such cars of particular types found to be needed;

(c) To purchase the number of flat cars of types found to be needed so as to achieve all available economies through such purchase programs;

(d) To obtain favorable equipment financing in the purchase of such cars through cooperative actions;

(e) To accomplish pooled management, control and accounting for the use of such cars and car service in order to obtain maximum utilization and better service to the public; and

(f) To pool the cost of the ownership, operation, and maintenance of such cars and to assess user charges which divide such cost equitably among the Railroad Participants, with due regard for return on investment and with provision for user adjustment refunds, as appropriate.

5.3. The parties expressly acknowledge that the agreement, undertakings and plans set forth herein will mutually benefit each of them and will enable them to improve car service to the members of the shipping public without any undue restraint on competition between them, or between them or any of them, and any other person.

ARTICLE VI - STUDIES OF FLAT CAR TYPES

6.1. Pursuant to this ~~Trailer-Train~~TTX Pooling Agreement, the Railroad Participants herewith undertake and agree to conduct through ~~Trailer-Train~~TTX studies, from time to time, and to consider the application of the terms of this agreement to particular types of flat cars.

ARTICLE VII - THE FLAT CAR POOLING PLAN

7.1. There shall be established a pool of general and special purpose flat cars of a standardized design or designs to be controlled and managed by ~~Trailer-Train~~TTX in accordance with the purpose of this ~~Trailer-Train~~TTX Pooling Agreement.

7.2. Railroad Companies which are now stockholders of ~~Trailer-Train~~TTX shall be Railroad Participants in this ~~Trailer-Train~~TTX Pooling Agreement. Any other Railroad Company which meets the participation

requirements set forth herein shall be authorized to become a party to this agreement.

7.3. ~~Trailer Train~~TTX shall be the instrumentality through which this agreement and pooling plan shall be carried out and the board of directors of ~~Trailer Train~~TTX shall be vested with the authority necessary to accomplish that purpose.

7.4. Participation in this flat car pooling plan by any Railroad Company not as of the date hereof a stockholder of ~~Trailer Train~~TTX shall be dependent upon compliance by each such Railroad Company desiring to participate with the following requirements:

(a) Being a signatory to this ~~Trailer Train~~TTX Pooling Agreement and included within the scope of an order of the Interstate Commerce Commission~~STB~~ approving an application under Section 5(+)11322 of the Act with respect thereto;

(b) Becoming a stockholder of ~~Trailer Train~~TTX through the purchase and continued ownership thereafter of not less than 500 shares of the capital stock of ~~Trailer Train~~TTX (except to the extent to which the stockholders or the board of directors of ~~Trailer Train~~TTX shall determine that ownership of lesser number of shares shall be required);

(c) Being a signatory to such Form "A" Car Contract and such Form "D" Special Devices Contract, as is defined herein, each as amended and supplemented, as the board of directors of ~~Trailer Train~~TTX shall from time to time have established; and

(d) Being a signatory of the Shareholders' Agreement, as defined herein;

~~— (e) Being a signatory to the Subordination Agreements, as defined herein; and~~

~~— (f) Being a signatory to the Note Purchase Agreement, as defined herein.~~

7.5. Any Railroad Company which desires to become a party hereto and which is not as of the date hereof a stockholder of ~~Trailer Train~~TTX shall, if it desires to purchase the required number of shares of capital stock from ~~Trailer Train~~TTX, be afforded the opportunity, on application therefor, to purchase said shares from ~~Trailer Train~~TTX at a reasonable, nondiscriminatory and competitive price and upon such terms and conditions of payment as shall be fixed by the stockholders or the board of directors of ~~Trailer Train~~TTX.

7.6. Each Railroad Company signatory agrees with each other signatory to comply with the terms and conditions of this agreement.

7.7. The board of directors of ~~Trailer Train~~TTX shall determine, from time to time, the number, type, and design characteristics of the flat cars to be acquired by ~~Trailer Train~~TTX and other matters pertaining to their design, purchase, financing, utilization, maintenance, accounting and methods to be employed for the division of gross or net earnings.

7.8. Each Railroad Participant, without limitation upon its right to secure any or all of its requirements for flat cars by other means, shall:

(a) Furnish to ~~Trailer Train~~TTX such information relative to the types of flat cars under consideration for purchase by ~~Trailer Train~~TTX as ~~Trailer Train~~TTX may reasonably request; and

(b) Furnish to ~~Trailer Train~~TTX such other information as it may reasonably request concerning utilization of the type of flat cars to which this agreement relates, including such Railroad Participant's anticipated requirements of such car types.

7.9. Flat cars to be included in the pool shall be purchased and owned or leased by ~~Trailer Train~~TTX, using such methods of financing as shall be available to it.

7.10. Rates and charges and orders and regulations relative to cars in the flat car pool shall be fixed, from time to time, by the board of directors of ~~Trailer Train~~TTX in accordance with the following principles:

(a) It shall be the policy of ~~Trailer Train~~TTX to maintain per diem, mileage and other charges at the lowest level required to meet ~~Trailer Train~~TTX's ordinary and necessary costs and expenses, including, as appropriate, return on investment, to maintain a financial position enabling it to finance flat car acquisitions on reasonable terms and to keep the cars in proper condition for operation at the highest point of efficiency and to accumulate retained earnings adequate to support continued reasonable enlargement of the number of cars in the pool, to that number found to be needed. It is the intention of the parties to the ~~Trailer Train~~TTX Pooling Agreement that the total compensation paid to ~~Trailer Train~~TTX by Railroad Participants shall be no greater than consistent with the foregoing policy;

(b) Rates and charges, orders and regulations shall be observed by all Railroad Participants in the flat car pooling plan;

(c) With such exceptions as the board of directors of ~~Trailer Train~~TTX may from time to time prescribe, all detention and movement of cars on a Railroad Participant's line will be subject to rental charges;

(d) Charges shall include a per diem charge and/or a rate or rates for each mile of movement of such car, whether loaded or empty, on the line of a Railroad Participant; and

(e) To the extent that per diem, mileage and other charges exceed the criteria set forth in subparagraph (a) hereof, such charges may be subject to adjustment, referred to as an "adjustment refund", as provided in this subparagraph (e). An adjustment refund for any year may be determined at the beginning of the following year by the board of directors of ~~Trailer Train~~TTX and be expressed as a percentage of the amount by which all car-hire compensation earned by ~~Trailer Train~~TTX during such prior year shall exceed the ordinary and necessary expenses of operation, together with the net earnings to be retained by it, for such year. In determining the amount of any such adjustment refund, said board of directors may take into account such other factors as in their judgment shall be appropriate. The adjustment refund, if and to the extent declared by the board and approved by the STBCommission, shall be paid to Railroad Participants as an adjustment of per diem, mileage and other charges paid by them for the use of ~~Trailer Train~~TTX cars during such prior year, such amount to be divided among them on the basis of proportionate car utilization by each. For the purposes of this paragraph, proportionate car utilization shall be the ratio which the total amount paid by each Railroad Participant as car-hire compensation shall bear to the total received by ~~Trailer Train~~TTX from all Railroad Participants as car-hire compensation.

7.11. The management of the pool flat cars will be under the direction of ~~Trailer Train~~TTX and administered under the following general rules as more particularly set forth in the Form "A" Car Contract, as amended and supplemented:

(a) No one Railroad Participant shall have any preferred right as compared with any other Railroad Participant to the use of any pool flat cars, except subject to special arrangements approved by ~~Trailer Train~~TTX or as a consequence of car movement directives by ~~Trailer Train~~TTX;

(b) Any Railroad Participant having possession of a pool flat car may use it for loading to any point on any line in the national rail system in the United States and such other points as may be approved by ~~Trailer Train~~TTX; and

(c) No Railroad Participant shall by reason of participation in this flat car pooling plan, be required to modify its individual car ownership program or to load pool cars preferentially to its own.

ARTICLE VIII - COUNTERPARTS

8.1. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each counterpart shall be signed by ~~Trailer Train~~ TTX and by one or more Railroad Participant.

ARTICLE IX - DURATION

9.1. This Agreement shall take effect on October 1, 1974, and shall continue in effect for an initial period of fifteen (15) years. Thereafter, this agreement shall continue in effect for a first additional term of five (5) years from October 1, 1989, ~~and a second additional term of ten (10) years from October 1, 1994, and a third additional term of fifteen (15) years from October 1, 2004, and thereafter shall be automatically extended for successive one year periods until terminated by agreement of the parties.~~ This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

ARTICLE X - WITHDRAWAL

10.1. Following expiration of the third additional term provided hereinabove, any of the railroad participants, a party hereto or which shall become a party hereto, shall have the right to withdraw from this Agreement upon not less than twelve (12) months written notice of its intention to do so given to each other party, provided that such withdrawal shall not relieve it from any obligation as to which it may (either directly or indirectly) be jointly, severally or contingently liable hereunder.

IN WITNESS WHEREOF, the Railroad Participants and ~~Trailer Train~~ TTX have caused this Agreement to be signed by their duly authorized officers as of the day and year first above written.

~~TRAILER TRAIN~~ TTX COMPANY

By

Attest:

Title:

Railroad Participant

By _____

Attest:

Title:

C

PROPOSED AMENDMENT TO THE FORM A CAR CONTRACT

Amend Paragraph 21 of the Form A Car Contract to read as follows:

“21. This agreement shall take effect as of the day and year first above written and shall inure to the benefit of and be binding upon each of the parties hereto, their respective successors, lessees and assigns, for the period of fifteen (15) years from and after October 1, 2004. Thereafter, Carrier shall have the right to withdraw from this Agreement upon not less than twelve (12) months’ written notice to the Company of its intention to do so.”

D

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

BOSTON & MAINE CORPORATION

By: *D. A. Steiniger*
Title: *President*

Date: *December 23*, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

CENTRAL OF GEORGIA RAILROAD COMPANY
NORFOLK SOUTHERN RAILWAY COMPANY
PENNSYLVANIA LINES, LLC

By: William J. Ratz
Title: Vice President

Date: December 12, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

CSX CAPITAL MANAGEMENT, INC.

By: Maurice Laguerre
Title: President

Date: DECEMBER 17, 2003

CSX TRANSPORTATION, INC.

By: P. M. M. J. S.
Title: EXECUTIVE VICE PRESIDENT +
CHIEF COMMERCIAL OFFICER

Date: DECEMBER 17, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

FLORIDA EAST COAST RAILWAY COMPANY

By: 

Title: President & Chief Operating Officer

Date: December 15, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

GRAND TRUNK WESTERN RAILROAD INC.
ILLINOIS CENTRAL RAILROAD CO.

By: _____

Title: SENIOR VICE-PRESIDENT
PUBLIC AFFAIRS,
CHIEF LEGAL OFFICER AND
CORPORATE SECRETARY

Date: DEC. 23, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

SOO LINE RAILROAD COMPANY
d/b/a Canadian Pacific Railway

By: Patrick A. Pender
Patrick A. Pender
Title: Authorized Agent to Execute on behalf
of Soo Line Railroad Company d/b/a
Canadian Pacific Railway

Date: December 12, 2003

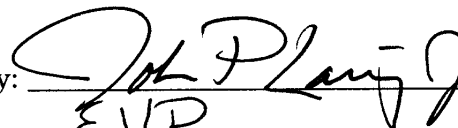
ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

THE BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY

By: _____

Title: _____


EVP

Date: 12/16/03, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

By: MR Mandy

Title: Chairman, President and CEO

Date: December 15, 2003

ASSENT

The undersigned hereby assents to the filing and prosecution of an Application on its behalf to the Surface Transportation Board for approval of amendments to the TTX Company Pooling Agreement and Form A Car Contract extending their terms for an additional fifteen (15) years from October 1, 2004; and for additional one-year terms thereafter until terminated by the parties, with any participant having the right to withdraw after said fifteen-year period upon twelve month's notice; and further authorizes TTX Company to take all steps necessary on behalf of the undersigned in filing and prosecuting such application.

UNION PACIFIC RAILROAD COMPANY

By: _____

Title: Chairman & Chief Executive Officer

Date: December 12, 2003

E

NOTICE

DEPARTMENT OF TRANSPORTATION

SURFACE TRANSPORTATION BOARD

(Finance Docket No. 27590 (Sub-No. 3))

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

[_____, 2004]

AGENCY: Surface Transportation Board

ACTION: Notice of pooling application and request for public comments.

SUMMARY: On January 6, 2004 TTX Company (“TTX”) and certain participating railroads filed an application to extend for 15 years TTX’s flatcar pooling authority, which the Board’s predecessor, the Interstate Commerce Commission (“ICC”), originally granted in 1974 and reauthorized in 1989 and again in 1994. TTX’s pooling authority under the ICC’s 1994 order would otherwise expire October 1, 2004.

DATES: Any comments on the application must be filed by _____, 2004 [60 days from publication]. If comments are filed, applicants’ rebuttal is due by _____, 2004 [105 days from publication]. A decision on the merits of the application is due to be issued by [September 1, 2004].

ADDRESSES: Send comments (an original and 10 copies) referring to referring to Finance Docket No. 27590 (Sub-No. 3) to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, send one copy of comments to each of applicants’ representatives: (1) David L. Meyer, Covington & Burling, 1201 Pennsylvania Avenue, N.W., Washington, DC 20004; and (2) Patrick B. Loftus, TTX Company, 101 North Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: [_____] (202) ____ - ____ (TDD for hearing impaired: (202) ____ - ____).

SUPPLEMENTARY INFORMATION: TTX and the railroad applicants seek the Board’s approval of a 15-year extension of their pooling of flatcar service. Under 49 U.S.C. 11322(a), the Board may approve a pooling agreement if it finds that the proposal (1) will be in the interest of better service to the public or of economy of operation and (2) will not unreasonably restrain competition. The proposed pooling agreement was originally approved by the Board’s predecessor, the Interstate Commerce Commission (ICC), in *American Rail Box Car – Pooling*, 347 I.C.C. 862 (1974). The ICC approved a five-year extension in TTX’s pooling authority in *Trailer Train Co. – Pooling – Car Service*, 5 I.C.C.2d 552 (1989). The ICC last approved TTX’s pooling agreement in 1994 for a 10-year term, which expires October 1, 2004. See *TTX Company – Pooling*, ICC Finance Docket No. 27590 (Sub-No. 2) (ICC served Aug. 31, 1994).

The application seeks to extend TTX's authority to continue the flatcar pool under the same pooling agreement – with only minor, technical updates – for an additional 15 years.

In addition to TTX, the applicants are:

The Burlington Northern and Santa Fe Railway Company
CSX Transportation, Inc.
Florida East Coast Railway Company
Guilford Rail System
Grand Trunk Western Railroad Company
Illinois Central Railroad Company
The Kansas City Southern Railway Company
Norfolk Southern Railway Company
Soo Line Railroad Company
Union Pacific Railroad Company

TTX also asks the Board to clarify that the requested pooling authority will encompass changes in TTX's car contracts and other policies that are within the scope of the Pooling Agreement and the extant limitations on TTX's authority to assign and allocate cars, without the need to seek additional advance Board approval.

Copies of the application are on file and may be examined at the Office of the Secretary, Surface Transportation Board, Washington, DC. Copies may also be obtained free of charge by contacting applicants' representative, Michael L. Rosenthal, (202) 662-5582. A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Applicants contend that, because the proposed transaction does not involve any changes in rail operations or service to shippers, no environmental documentation is required, see 49 CFR 1105.6(c)(2)(ii), and no historic report is required, see 49 CFR 1105.8(b)(2).

Comments (an original and 10 copies) must be in writing, and are due by _____, 2004 [60 days from publication]. Comments must contain the basis for the party's position either in support or opposition, and must contain the name and address of the commenting party. Applicants must be concurrently served with a copy of each comment. Applicants' rebuttal (an original and 10 copies) must be filed with the Board not later than _____, 2004 [105 days from publication].

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Decided: _____, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

209792

BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)



FEE RECEIVED

JAN 06 2004

SURFACE
TRANSPORTATION BOARD

APPLICATION FOR
REAUTHORIZATION OF THE TTX FLATCAR POOL

ENTERED
Office of Proceedings

JAN 06 2004

Part of
Public Record

FILED

VOLUME II OF II

JAN 06 2004

SUPPORTING STATEMENTS AND ADDITIONAL EXHIBITS

SURFACE
TRANSPORTATION BOARD

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Attorneys for Applicants

January 6, 2004

Contains Color Images

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BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)

VERIFIED STATEMENT

OF

ANDREW F. REARDON

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VERIFIED STATEMENT

OF

ANDREW F. REARDON

My name is Andrew F. Reardon. Since January 1, 2001, I have been President and Chief Executive Officer of TTX Company ("TTX"). I have over 26 years of experience in the railroad industry. From 1977 through 1989, I held various positions in the law, finance, and government affairs departments of Union Pacific, Burlington Northern, and Illinois Central. During my four years with Illinois Central, I served as a Director on the boards of TTX and the Terminal Railroad Association of St. Louis. From 1990 through 1992, just prior to joining TTX as Vice President - Human Resources, I served as a Presidential Appointee on the U.S. Railroad Retirement Board. My educational background includes an undergraduate degree from the University of Notre Dame, a law degree from the University of Cincinnati, and a masters in taxation from Washington University School of Law in St. Louis.

The participants in TTX's flatcar pool have unanimously agreed to extend their flatcar pooling agreement for an additional 15-year term, and they are joining with TTX to submit this application for reauthorization of the TTX flatcar pool. TTX's flatcar pool has served the railroad industry and its customers well for 30 years. As I and other witnesses explain, the Board should approve this application so that TTX can continue to produce the efficiencies and other benefits that help railroads and their customers meet their growing need for flatcars.

TTX is one of railroading's greatest success stories. The public benefits of the TTX flatcar pool have been repeatedly recognized in the ICC's prior decisions approving the pool. Thirty years of experience has proven beyond doubt that TTX plays a valuable role in the

efficient supply of flatcars to the North American rail network. TTX has succeeded because it acts as an agent of its owners and thus for the benefit of the rail network as a whole, working to identify and implement better, more cost-effective ways of meeting the railroads' collective need for intermodal, automotive, and other flatcars. TTX pool cars flow efficiently across the entire rail network to satisfy the need for flatcar equipment where it arises. TTX reduces equipment costs by employing a long-term approach to maintenance that considers the overall system-wide costs of car ownership and operation. It has a proven track record of fostering the development and implementation of new innovations in car design. And it plays a vital role in meeting the growing and evolving market demand for flatcars by acquiring new cars and redeploying older equipment to new uses.

My verified statement addresses three principal topics: (1) TTX's request for an extension of its flatcar pooling authority and why an extension is in the public interest; (2) TTX's request to reinstate the flatcar pool's original 15-year term, consistent with the ICC's approval of the pool in 1974; and (3) TTX's request for clarification of its flexibility to innovate within the bounds of its pooling agreement and the ICC-imposed limits on its ability to assign and allocate cars without the need to obtain pre-approval from the Board.

Before turning to these subjects, however, I offer a brief update on some developments involving TTX since the ICC's 1994 reauthorization proceeding.

First, TTX capital expenditures for new and redeployed flatcars since 1994 have totaled more than \$4.2 billion. TTX finances its acquisitions independently, without any guarantees from any railroad or other corporation, and without capital infusions other than growth in retained earnings. TTX accomplishes this by taking an austere approach to controlling its operating costs and demonstrating to the financial community its ability to produce stable and

solid financial results. As a result, TTX has achieved and maintained strong, high quality credit ratings with Standard & Poor's and Moody's and a healthy reputation with the institutional investor community, which translates into reduced borrowing costs, ready access to financial resources, and, ultimately, lower car hire rates. At a time when the railroad industry is shouldering increased debt burdens, facing growing pressure to earn their cost of capital, and at the same time facing the need for infrastructure and other capital investments, TTX's role in funding growth of the North American flatcar fleet is increasingly important.

Second, TTX has continued to expand its fleet to meet marketplace demands. As of January 1, 2004, TTX's flatcar fleet included approximately 115,560 railcars, including approximately 36,660 intermodal cars, which provide the capacity (*i.e.*, "platforms") to carry approximately 177,300 40- to 53-foot trailers or containers, and 78,900 other types of flatcars.¹ This represents a significant increase from the approximately 133,000 intermodal platforms and 54,800 other flatcars in the TTX fleet in 1994. TTX has approximately 49,100 autorack cars, as compared to 38,300 in 1994; it has approximately 13,800 bulkhead and centerbeam flatcars, compared to 7,400 in 1994; and it has approximately 16,000 other types of flatcars (such as chain tie-down cars for carrying agricultural and military vehicles, and heavy-duty flats for carrying electric generators and other heavy equipment), as compared to 9,100 in 1994.

Third, TTX's fleet has continued to evolve to meet the demands of the market. Since the ICC's 1994 reauthorization, TTX has introduced several innovative new car types and has modified existing cars to better meet marketplace demands. For example, in response to

¹ TTX tracks the number of intermodal platforms – *i.e.*, the capacity to carry one 40- to 53-foot container – because of the diversity of intermodal equipment. Some intermodal cars have only one platform, while five-unit articulated doublestack cars contain ten platforms.

increasing market demand to move 20- and 40-foot international containers, TTX, in conjunction with its car builders, developed designs for converting its 48-foot double-stack well cars into cars capable of efficiently carrying both 20- and 40-foot containers. TTX's 48-foot well cars had become less desirable in recent years as the standard length of domestic containers increased to 53 feet. TTX has converted over 3,400 48-foot well cars to 40-foot lengths, and we plan on converting more in the future. TTX has also reacted to the shift in the standard size of domestic containers by embarking on a conversion program in which 48-foot spine cars will be extended to accommodate 53-foot containers. TTX also responded to concerns expressed by automakers about damage to new vehicles during rail transport by working with the supply community to develop and implement improved car cushioning and truck technology, equipping tens of thousands of cars and spending more than \$425 million in the process. TTX is continuing its record of innovation by developing and testing prototypes for a new 89-foot "Uni-Level" car that can be used for rail delivery of large trucks and agricultural equipment.

Fourth, TTX has continued to improve the efficiency of its operations. It has worked to improve TTX equipment utilization on behalf of its participants, and it has significantly reduced average operating costs. From 1994 through 2002, TTX's per-unit costs fell by more than 16 percent.²

Fifth, TTX has continued to fulfill its mission of providing cars to its participants at the lowest rates possible, thus passing along the efficiencies it generates. TTX has no independent profit motive – its goals are aligned with its participants' goals in reducing rail

² TTX's costs per "two platform equivalent" (*i.e.*, the carrying capacity of two intermodal platforms, equivalent to one doublestack well or one standard 89-foot flatcar) fell from \$5,336 to \$4,458.

transportation costs and increasing intermodal traffic. TTX's average charges for use of its equipment were about 13 percent lower in 2002 than in 1994; adjusted for inflation, they were 27 percent lower in 2002 than in 1994. Since 1996, TTX has saved participants more than \$650 million through a combination of permanent and temporary rate reductions.

Sixth, TTX has continued to perform its important role without having any adverse effects on competition. TTX is a purely pro-competitive force. Participation in the pool entails no restriction whatsoever on any railroad's ability to provide for its equipment needs in any way it chooses, including through the acquisition (or lease) of cars outside the TTX pool. TTX's goal is to make its service more attractive than the other options, and its future success hinges on being able to continue the benefits that have characterized the pool for more than 30 years.

TTX's track record confirms that its operations do not cause competitive harm. TTX cooperated fully with the Board's Office of Compliance and Enforcement, which was charged with monitoring TTX and reporting on any operational concerns in 1997 and 2001. We were gratified by the Board's decision in November 2001 to discontinue its monitoring of TTX. No complaints about TTX were received by the Board during the monitoring period, and none have been received since.

* * *

As the application explains, TTX and its participants are seeking reauthorization of pooling authority under 49 U.S.C. § 11322. Under this statutory standard – and the same criteria that the ICC applied in approving TTX's reauthorizations in 1989 and 1994 – there should be no question that the current application should be approved. TTX's pooling operations continue to provide public interest benefits in the form of improved service to the public and

economy of operation. TTX also continues to play a crucial role in promoting the growth of intermodal service and fostering competition in surface freight transportation. Rail intermodal traffic has grown tremendously in the past several decades, but one need only drive along the nation's highways to understand the almost limitless opportunity for additional rail traffic growth and the related societal benefits in terms of improved economic productivity and growth, lower transportation costs, reduced roadway congestion, and a cleaner environment.

TTX and its participants are requesting reauthorization for a 15-year term, consistent with the original term approved by the ICC in 1974, rather than the 10-year term granted in 1994. We are also asking the Board to clarify TTX's flexibility to act within the bounds of the Board's pooling authorization without Board pre-approval. We are not seeking any changes to the scope of TTX's existing authority or the elimination of any existing limitations on TTX's ability to assign cars. Our requests are an effort to reduce regulatory burdens on TTX.

I. THE BOARD SHOULD EXTEND TTX'S POOLING AUTHORITY

TTX's basic mission in operating the flatcar pool is to provide the railroad industry with an efficient and adequate supply of high quality flatcar equipment. TTX exists to serve the interests of its owners by acquiring cars to meet user demand, maintaining them to a high standard, and distributing them where needed, all at the lowest cost possible. Because TTX is accountable to its railroad owners, it cannot stray from its pro-competitive and efficiency-creating role in the industry. TTX's participants would not tolerate unwarranted increases in price, decreases in car supply, or reductions in service quality. They would either demand that TTX meet their needs better or turn elsewhere for their flatcars, as they remain free to do.

I will not repeat here the substance of the evidence that is contained in the verified statements of Mr. Wells, Mr. Hulick, and the other witnesses supporting the application. Those statements describe in detail the efficiencies associated with TTX's car supply, maintenance, distribution, and research and development functions. However, it is important that the Board understand the pooling functions that TTX performs, the significant benefits that it creates, and the important role that it continues to play in the railroad industry.

A. A Summary of TTX's Pooling Functions

1. Car Supply

TTX fulfills its car supply function by acquiring new equipment and by modifying and upgrading cars in its existing fleet. Between 1994 and 2003, TTX spent more than \$3.7 billion to acquire approximately 91,000 new intermodal platforms and 20,600 other flatcars.³ It spent an addition \$0.5 billion on conversion programs and other modifications to existing flatcars. It acquires cars using its own capital, not railroad funds, thus significantly reducing railroads' cost structures and releasing capital for other applications. It also uses its own funds to develop and test new equipment.

TTX also meets its participants' car supply needs by extending the life of its existing fleet and redeploying equipment to best meet customer needs. For example, as noted above, TTX has undertaken an effort to convert thousands of its 48-foot well cars into equipment that can more efficiently handle 20-foot and 40-foot international containers. As another example, TTX has converted thousands of its surplus 89-foot flatcars into autorack cars. Both of these conversion programs relied upon extensive research and development efforts of TTX's

³ TTX will also spend over \$500 million to acquire thousands of new boxcars for its boxcar pool.

Engineering Department. TTX also meets its participants' needs by working with suppliers to improve existing equipment, as illustrated by its \$425 million program to improve the ride quality of TTX-owned flatcars equipped with autoracks. As the owner of pool equipment, TTX has strong incentives to improve the cars in its flatcar fleet and extend their useful life.

TTX's works closely with its suppliers to improve quality and develop more cost-effective approaches for providing flatcar equipment for the railroads. TTX is quite proud of the rating system that it has developed to evaluate its suppliers. Each year, TTX's Supplier Evaluation Committee ("SECO") conducts reviews of TTX suppliers and develops an overall score based on the objective criteria that matter most to TTX's participants – such as quality, price and ability to deliver on schedule. TTX works with its suppliers to improve their SECO scores, and overall scores have risen over time, reflecting significant improvements in quality and efficiency. The SECO process provides benefits for the rail industry that extend beyond TTX's flatcar acquisitions. Railroad equipment suppliers routinely tout their SECO credentials when they advertise their equipment-supply capabilities to the industry.

2. Car Maintenance

As the owner of the cars in the flatcar pool, TTX also has strong incentives to ensure that its cars are well-maintained and reliable. It has a strong interest in keeping its cars in productive service on a day-to-day basis and over their forty-plus year life, and it benefits directly from maintenance practices that extend the life of fleet equipment. TTX considers life-cycle costs in designing its maintenance plans and quality assurance standards – that is, it performs maintenance with a view toward the total maintenance costs that will be incurred over the car's life, not just the short-term costs necessary to acquire a car and keep it running. Moreover, TTX and its participants depend on a smooth-running rail network, and thus TTX has

strong incentives to avoid the costs of service interruptions and switching bad-order cars associated with maintenance deficiencies.

In order to assure high quality maintenance, TTX performs shop repairs at its own facilities in California, Florida, and South Carolina, as well as at independent facilities where TTX maintenance personnel work with independent contractors. It performs light repairs and inspections at Field Maintenance Operations located at more than 40 major intermodal facilities and other strategically located mobile repair sites throughout the United States and Canada. TTX's extensive experience and expertise allows it to operate in a cost-effective manner while keeping the fleet up and running to the standards demanded by its railroad owners.

3. Car Distribution

TTX distributes pooled equipment to its participants in an effort to ensure that supply meets demand. Its operation of a free-running flatcar fleet means that its participants have access to a shared supply of cars that can flow without restriction throughout the North American railroad network. It uses agreed-upon procedures to establish its participants' entitlement to cars based on principles of supply and demand, and it can issue car movement directives to ensure that the entitlements are fulfilled. TTX also avoids unproductive empty movements through a "turn-back" provision, which allows participants to discontinue car hire liability without moving unused cars off their system.

TTX's efficient distribution of pool cars makes it possible to achieve levels of equipment utilization and operating efficiencies that railroads could never achieve using separately owned fleets. As Mr. Wells explains in his verified statement, in 2002 TTX intermodal cars operated empty only seven miles for every 100 miles that they traveled, and the TTX intermodal fleet generated 29 percent more loaded miles per platform than did non-TTX

intermodal cars. Every investment dollar spent on TTX equipment yields more “bang for the buck” than the same dollar spent on equipment outside the TTX pool. TTX thus reduces the capital outlays necessary to allow the railroads industry’s flatcar fleet to keep pace with intermodal and other traffic growth. Mr. Wise calculates that TTX’s distribution methodology saves the rail industry more than \$180 million in annual operating expenses and \$40 million in annual capital carrying costs, making it easier for the railroads to earn their cost of capital. Moreover, TTX’s ability to reallocate cars to match demand shifts allows TTX to purchase equipment so its participants can pursue new business in situations where individual railroads would not take on the financial risks of acquiring additional cars.

4. Research and Development

Research and development activities are an integral part of TTX’s car acquisition and maintenance functions. TTX research and development personnel play an important role in designing new car types and working with equipment suppliers to implement production of new equipment and improvements to the existing fleet. For example, TTX personnel played a central role in designing and executing the well car and autorack conversion programs described above. TTX also engages in comprehensive testing of existing equipment in order to improve performance and extend equipment life. For example, TTX spent several hundred million dollars investigating damage to motor vehicles during transport and working with the equipment supply community to develop, test, and implement improvements to its autorack cars. TTX is one of the most active users of the Association of American Railroads’ Transportation Technology Center testing facilities in Pueblo, Colorado, having sponsored hundreds of test projects annually since 1994.

B. A Brief Overview of TTX's Benefits

The TTX flatcar pool provides significant benefits not only to TTX participants, but also to the transportation industry as a whole. Messrs. Wells and Hulick and other witnesses discuss those benefits in detail. Here, I want to provide a brief overview of those benefits with respect to rail intermodal transportation, which is on its way to becoming the largest source of railroad business.

Since the TTX flatcar pool was first approved in 1974, U.S. intermodal loadings have increased over 238 percent. In just the past ten years since the Board last reauthorized the flatcar pool, U.S. and Canadian intermodal loadings have increased over 25 percent. If current trends continue, intermodal traffic will soon surpass coal traffic as the railroad industry's largest source of revenue. At the same time, intermodal competition among railroads, steamship lines, and motor carriers continues to intensify, to the benefit of the shipping public.

TTX's role in fueling the growth in rail intermodal business and fostering intermodal competition cannot be overstated. TTX's ability to meet growing intermodal demand with a supply of high-quality equipment is the foundation upon which these developments have been based. Moreover, TTX has satisfied the growing demand with car hire rates that, in both nominal and real dollars, are *lower* now than when TTX was reauthorized in 1989 and 1994. In short, TTX's pooling efficiencies are true public benefits, as the numerous shipper statements submitted in support of the application confirm.

It is difficult, if not impossible, to imagine how these benefits and efficiencies could have been achieved in the absence of TTX's nation-wide pool. Without this pool, the limitations on railroad resources, financial risks associated with car purchases by individual railroads, and the difficulties experienced by individual railroads in maintaining their own and

each others' cars would have limited the growth of intermodal business and diminished the level of competition in the transportation markets served by intermodal carriers.

TTX is able to achieve these benefits because of the broad range of pooling functions that it performs. TTX's car distribution system employs a network-wide view to make available railcars to pool participants in a manner that maximizes utilization and reduces transportation costs. In times of high demand, it discourages inefficient equipment hoarding by monitoring equipment flow and assuring participants that their equipment needs will be met. In times of slower demand, it discourages inefficient attempts to move empty cars off line by relieving carriers of car hire responsibility. However, the TTX flatcar pool is much more than a car distribution system. Its acquisition, maintenance, and research and development activities all contribute substantially to TTX's ability to achieve its owners' goals of fostering the continuing growth of intermodal traffic and other traffic handled using equipment in the flatcar pool.

C. The Continuing Need for the TTX Flatcar Pool

TTX's participants are seeking reauthorization of TTX's flatcar pool because they recognize that it continues to play a critical role in the railroad industry. All of the benefits related to the flatcar pool – adequate car supply, high maintenance standards, efficient car distribution, and continuing research and development – are just as important today as they have been since 1974. In fact, TTX may be more important now than ever before. At a time when railroads are facing unprecedented demands for capital spending – to add mainline capacity, invest in new terminals, acquire locomotives, and meet countless other needs – TTX will continue to provide an efficient source of capital for the acquisition of new equipment; it will continue to take a life-cycle perspective with respect to maintenance; and it will continue to invest in research and development. It will continue the efficient car distribution policies that have resulted in the low rates for its owners.

Moreover, TTX will continue to play a critical role in supporting the growth of intermodal traffic. TTX's provision of an adequate supply of high-quality equipment at low prices is a major reason why railroads have been able to attract and retain profitable traffic. TTX's role in generating these benefits and efficiencies will continue to be vital to the railroads' ability to retain and grow this traffic in the future.

II. THE BOARD SHOULD REAUTHORIZE THE FLATCAR POOL FOR A 15-YEAR TERM

As part of this application, TTX's participants seek to restore the original 15-year term of their pooling agreement. A longer term will promote greater certainty and stability for TTX, its participants, rail shippers, and lenders. It will also help reduce regulatory burdens on TTX.

The 1974 flatcar pooling agreement approved by the ICC contained an initial 15-year term. Once the initial term expired, the agreement provided for automatic extensions for successive one year periods until terminated by the parties. The 1974 agreement allowed participants to withdraw from the pool upon twelve months' notice after the initial term expired.

In 1989, in the first TTX reauthorization proceeding, the ICC responded to concerns about the dynamic nature of the market and regulatory climate, as well as a controversy involving TTX's practices of allocating and assigning railcars, and reauthorized the flatcar pool for only a 5-year term. In 1994, in the second reauthorization proceeding, the ICC reauthorized the flatcar pool for an additional 10-year term. Although TTX had requested a return to the original 15-year term, the ICC stated that a shorter term was preferable because conditions were still dynamic and changing. It also directed its Office of Compliance and Enforcement to prepare periodic reports on TTX's activities. After observing that it had not received a single negative comment, the Board discontinued monitoring in 2001.

The market for flatcars – particularly intermodal cars – will always be dynamic in certain respects. That is one of the reasons why TTX's role is so important. However, in the last 15 years, the intermodal industry has matured significantly. Intermodal has become a core railroad business. Alternative car suppliers have become a stable, competitive force. Over those same 15 years, the TTX flatcar pool continued to prove itself by generating the same kinds of pro-competitive benefits that it has provided to the rail industry since 1974.

Reauthorization proceedings are expensive and time consuming. They distract employees from the business of running the pool. A 15-year initial term will significantly reduce the regulatory burdens on TTX and its participants, and the option of continuing the pooling arrangement on a year-to-year basis after the initial term expires is a sensible mechanism for ensuring continuity until the participants propose a new, longer term of fixed duration. The proposed term will also reduce the regulatory uncertainties faced by TTX's lenders and contribute to TTX's ability to continue to pursue its goals in a cost effective manner. Moreover, pre-scheduled reauthorization proceedings are not necessary for effective Board oversight of TTX's activities. TTX must seek Board approval for any changes to the pooling agreement. It must file changes to its car contract. The Board will have continuing jurisdiction to receive complaints and to reopen the proceedings if it finds such action warranted. In light of TTX's well-established record of pro-competitive activities and the absence of any complaints, the Board should allow TTX and its participants to reinstate the original 15-year term with automatic year-to-year renewals and the related withdrawal provisions of the flatcar pooling agreement.

III. THE BOARD SHOULD CLARIFY TTX'S FLEXIBILITY TO INNOVATE

TTX's participants are also asking the Board to clarify TTX's flexibility to make changes to its car contracts and other policies within the bounds of its pooling authority. The

issue arises because, when the ICC originally authorized the flatcar pool, it attempted to distinguish between “substantive changes” to the pooling plan, which would require ICC approval prior to their implementation, and “changes involving merely form or particular practices,” which would not. Apparently recognizing the difficulty in distinguishing between the two situations, the ICC required TTX to file all changes in the pooling agreement or the car contract with the ICC. The distinction appears to be an unnecessarily restrictive vestige of an earlier, more regulatory era.

The prior approval language of the 1974 decision creates a cloud of uncertainty about what changes would require approval and thus inhibits TTX from developing and implementing beneficial changes to its flatcar pooling practices. TTX and its participating railroads might, for example, be deterred from considering changes in TTX’s distribution model even though they may hold potential for improving still further the availability of pool cars when and where needed to meet railroads’ traffic peaks. This chilling effect arises because of the expensive and time consuming nature of seeking approval, and the uncertainty about whether such a process will prove necessary. That effect would be removed if the Board clarified that TTX was free to innovate within the bounds of the pooling agreement approved by the Board.

The proposed clarification would not expand TTX’s authorized activities. TTX’s behavior would still be governed by the Board-approved pooling agreement and previously-established limitations on TTX’s “assignment” and “allocation” of cars. TTX would seek Board approval for any proposed changes in the pooling agreement or the Board-imposed limits on its activities. Moreover, TTX would also still file changes to its car contracts so that the Board could act if it concluded that TTX has exceeded the bounds of its authority. But TTX would be clearly authorized to act within the limits established by the Board-approved pooling agreement.

In this way, TTX would be able more effectively to serve the interests of its participants as marketplace conditions warrant.

IV. CONCLUSION

The TTX flatcar pool is one of the railroad industry's greatest success stories. It generates extraordinary efficiencies. Those efficiencies benefit the shipping public in the form of improved services and enhanced competition. Acting independently, neither railroads nor any other suppliers of flatcars could have achieved the level of benefits that TTX provides to the railroad network and its customers.

TTX has long played a critical role in the railroad industry, and – with the Board's renewed authorization – it will continue to play a critical role for the foreseeable future. It helps railroads meet the considerable challenge of financing equipment acquisition, it frees scarce capital for vital investment in infrastructure, and it overcomes incentives for inefficient practices that would otherwise increase the pressure on already overburdened railroad facilities.

TTX also has an important role to play in continuing to promote the growth of rail intermodal traffic. This business has become increasingly important as a source of revenue for railroads, and the public benefits of rail intermodal in terms of reduced highway congestion and reduced pollution have become increasingly apparent.

TTX and its nine railroad participants therefore ask the Board to reauthorize TTX's flatcar pool so that the pool can continue to provide the same kinds of benefits it has provided for the past 30 years. We also seek the flexibility to implement new ideas as opportunities to pursue additional benefits develop. We urge the Board to approve the application as filed.

VERIFICATION

I, ANDREW F. REARDON, President and Chief Executive Officer of TTX Company, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed this 5th day of January, 2004.


ANDREW F. REARDON

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BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)

VERIFIED STATEMENT

OF

THOMAS F. WELLS

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VERIFIED STATEMENT

OF

THOMAS F. WELLS

My name is Thomas F. Wells. I am Senior Vice President of Fleet Management for TTX Company ("TTX"). I have held that position since joining TTX in June 2001. As Senior Vice President of Fleet Management, I am responsible railcar management, business and market planning, and purchasing and supply services at TTX.

Prior to joining TTX, I spent over 17 years with Norfolk Southern Corporation, where I gained extensive experience with intermodal transportation and network design. Most recently, I served as Norfolk Southern's Assistant Vice President Intermodal Services. In that position, I was responsible for NS's intermodal railcar management and capital budgeting. I was also responsible for intermodal terminal design and development; containers, trailers, chassis and lift equipment used in intermodal service; intermodal computer systems and communications networks; and intermodal billing and other back office processes. I hold a B.A. with a double major in Business and Communications from Muskingum College in New Concord, Ohio, and an MBA from Miami University in Oxford, Ohio. I am also a graduate of the Executive Management Training program at Duke University's Fuqua School of Business.

This verified statement has three parts. In Part I, I describe the significant efficiencies created by TTX's operation of a national pool of TTX-owned flatcars. In Part II, I discuss how these efficiencies are passed through to TTX's owners in the form of lower rates. In Part III, I address TTX's request for clarification of its flexibility to develop and

implement innovative modifications to its car distribution practices within the boundaries of the pooling agreement.

I. TTX PROVIDES IMPORTANT BENEFITS TO RAIL INDUSTRY IN ALL FACETS OF FLAT CAR EQUIPMENT NEEDS

A. TTX's "Pool" is More than Just a Fleet of Cars

The TTX flatcar pool is widely recognized as providing efficient management of a flatcar fleet for the benefit of the railroad industry. The efficiencies associated with TTX's management of the flatcar fleet are substantial, as I describe below. However, the flatcar pool involves much more than common management of a fleet of cars. It encompasses a broad range of activities aimed at providing an adequate and efficient supply of high-quality flatcars at the lowest possible cost. TTX creates benefits not only by maintaining a whole-network perspective on car distribution, but also by maintaining a whole-network, cradle-to-grave perspective on flatcar acquisition, maintenance, and redeployments.

In the sections below, I describe the full range of benefits associated with the TTX flatcar pool. First, I discuss TTX's role in car acquisition and explain how it promotes the growth of railroad traffic while allowing railroads to use their capital for other projects. Next, I explain how TTX's management of the pooled fleet reduces inefficient empty movements and allows car supply to follow demand. Last, I briefly address the maintenance benefits and long-term asset redeployment benefits associated with TTX's car ownership and life-cycle approach to pooled equipment.

B. TTX's Role in Acquiring Cars for the Railroad Industry

TTX plays a central role in acquiring flatcars, and particularly intermodal cars, for the railroad industry. TTX is able to acquire a large number of cars because it

reduces the risks and costs of investing in flatcar equipment. It reduces risks because acquisition costs are essentially shared by its members, because it uses car distribution procedures that maximize productive use of its assets, and because it is able to modify existing equipment to meet changing demands. It reduces operating costs because the free-running nature of its intermodal fleet reduces unproductive switching and empty returns and because it enjoys substantial maintenance efficiencies. TTX also plays an important role because it takes a market-wide view of the industry's future need for flatcar equipment. It helps the railroad industry determine the aggregate demand for all types of flatcar equipment, recognize trends in demand, and provide the capacity to meet that demand. All of these benefits are interconnected, and they all begin with TTX's acquisition of equipment for the flatcar pool.

1. Overview of TTX's Car Acquisition Program

TTX draws on its experience, its members' forecasts (which are treated confidentially), and other sources of data regarding the rail industry and the general economy to develop state-of-the-art forecasts of traffic growth and the equipment needed to handle anticipated traffic levels.¹ It then designs an acquisition program to ensure that those needs are met. TTX is indifferent as to which railroad ends up handling the traffic, because the pool equipment will flow to those carriers that need it. TTX's sole focus is to provide a fleet sufficient to satisfy overall market demand. TTX's acquisition program has resulted in tremendous investment in flatcars throughout the pool's existence, including the years since

¹ TTX's traffic forecasts are based in part on a statistical analysis of the historical relationship between economic factors and rail volumes. TTX considers not only aggregate changes in traffic volumes, but also changes in the mix of traffic and the car types needed to support the projected mix. It uses that information, as well as information about trends in equipment efficiency, to forecast equipment needs.

the Board reauthorized TTX's flatcar pool in 1994. From 1994 through 2003, TTX invested more than \$3.7 billion in new flatcars of all types for the Nation's railroads.² It acquired approximately 91,000 intermodal platforms, 10,700 cars for the handling of automotive shipments, and 9,900 other flatcars, including centerbeam cars, bulkhead flatcars, and heavy duty flatcars.³

TTX's role in acquiring flatcars allows the railroad industry to promote the growth of intermodal and other transportation services that require flatcars and then meet the demand it helps create. Nowhere have TTX's car acquisition activities been more important than with respect to rail intermodal traffic. TTX was originally formed to promote rail intermodal growth, and the goal of promoting intermodal business and keeping pace with the changing nature of demand has remained at the forefront of TTX's car acquisition efforts.

TTX's acquisitions of intermodal cars have played a vital role in allowing its members to keep pace with the continuing growth and shifts in intermodal traffic since the flatcar pool was last reauthorized. From 1994 to 2002, U.S. and Canadian intermodal volumes increased by more than 25 percent. However, that figure masks a more significant shift: over the same period, trailer volume dropped 30 percent and container volume climbed 68 percent. TTX responded to the changes in volume and equipment preference.

² TTX also plans to invest more than \$500 million on flatcars in 2004.

³ TTX tracks the number of intermodal platforms – *i.e.*, the capacity to carry one 40- to 53-foot container – because of the diversity of intermodal equipment. Some intermodal cars have only one platform, while five-unit articulated double-stack cars contain ten platforms. Another metric commonly used to measure intermodal equipment capacity is the “two platform equivalent,” or “TPE.” A five-unit articulated double-stack car contains ten platforms or five TPEs.

Its intermodal platform capacity in the same period grew by 22 percent. The increase reflected the acquisition of 55,416 double-stack platforms to support the growth of the container business and 20,502 all-purpose platforms that can handle either containers or trailers. The cost of acquiring this additional capacity was \$1.96 billion.

The overall growth in intermodal traffic and the shift from trailers to double-stack containers between 1994 and 2002 continued long-term trends. For the entire period from 1974 through 2002, U.S. intermodal volumes increased by more than 238 percent.⁴ Double-stack traffic did not even exist in 1974, but by the end of 2002, TTX had 103,692 double-stack platforms, comprising 63 percent of its intermodal capacity.

Individual railroads would not have been able to meet the changing level or nature of demand for intermodal equipment by investing in such equipment to the same extent as TTX, in light of other demands on their capital resources and the narrow margins that intermodal traffic typically generates. This is true not only for small railroads that otherwise might not afford intermodal car fleets, but also for the large, well-known rail systems, which might well not even have considered introducing intermodal services in a number of markets if they had to bear, individually, the technological and market risks of equipment investment. No one can predict what changes the future may bring, but TTX will allow railroads to respond to those changes.

TTX also plays an important role in the acquisition of other flatcar equipment. As I noted above, from 1994 through 2003, TTX invested \$688 million to acquire approximately 10,700 cars for handling automotive shipments, and its autorack cars

⁴ This figure is based on U.S. intermodal traffic only, because we do not have reliable figures on Canadian intermodal traffic for the period before 1992.

comprise a large part of the North American fleet.⁵ In the same period, TTX invested \$660 million to acquire 9,900 centerbeam cars and other general use flatcars, including bulkhead flatcars, which are used to move commodities such as building materials, pipe, and structural steel. TTX's centerbeam cars comprise approximately 26 percent of the North American fleet. TTX often invests in cars that an individual railroad would be reluctant to acquire for itself. For example, since 1994 TTX has acquired 438 heavy-duty flatcars for movement of electrical generating equipment and other unusually large or heavy loads. These movements are relatively infrequent, and opportunities for these movements arise on different railroads at different times. TTX ownership of equipment capable of moving those loads spreads the investment risk among TTX members while ensuring that cars are available and can be directed to its members when they are needed.

TTX's acquisition program encourages investment in flatcars. No single railroad would purchase enough equipment to cover the maximum possible demand because it could not be sure that it would actually capture and retain the projected amount of business. Such uncertainty makes investment risky, and that risk leads to lower levels of investment. However, TTX overcomes those investment-limiting risks by focusing on market-wide demand, and its record of acquisitions reflects this important benefit.

2. TTX Allows Railroads to Invest Their Capital in Other Projects

As I mentioned above, individual railroads could not have made the same level of investment in equipment as TTX. TTX does not simply coordinate its members' car purchases – it acquires equipment for the flatcar pool using its own funds. The \$9 billion

⁵ For the most part, TTX's multi-level autorack cars consist of a TTX-owned flatcar and a separate "rack" owned by an individual railroad.

that TTX has invested in railroad equipment has freed its members' own capital funds for investment in pressing rail infrastructure projects.

Railroading is a capital-intensive business. Railroads invest far more of their revenue – an average of 18 percent – than other major industries, which invest less than four per cent on average. Railroads invest \$457,000 per employee, as compared to an average of \$65,000 for the manufacturing sector as a whole. Railroads face many competing demands for their capital dollars, and they have limited capital resources to draw upon. Railroads are already revenue inadequate, and their finances would be adversely affected if they were forced to carry flatcar investment on their balance sheets. They cannot afford to invest in every project that is cost-justified. They must prioritize their spending. In the budgeting process, it is often difficult for railroads to justify investing in intermodal projects because intermodal is a relatively low-margin business. TTX's car acquisition program means that investment in flatcars does not need to compete for scarce capital with other railroad projects. TTX thus creates a win-win situation: investment in flatcars is higher than it could have been otherwise, and railroads can devote additional dollars to infrastructure projects.

This win-win situation is possible because TTX's pool participants know that they can rely on TTX to provide high-quality cars at the lowest possible price. As I discuss below, TTX generates significant operating and maintenance efficiencies that it then shares with its participants in the form of lower rates. No other equipment supplier would have the same incentives to share its efficiency savings with the railroads.

3. TTX Role in the Acquisition Process Fosters Important Efficiencies

TTX's role as a major purchaser and owner of flatcar equipment is directly related to other key benefits provided by TTX. As Mr. Hulick explains in more detail, TTX

has accumulated substantial expertise regarding the development and improvement of flatcars. It devotes substantial resources to research and development efforts and working with carbuilders and component suppliers to develop new and improved flatcar equipment. As a result, it has facilitated the development and implementation of many improvements in equipment that have increased quality of service while decreasing costs associated with product damage, out-of-service time, and derailments. TTX would not have generated these benefits if it were merely the manager of other railroads' equipment. As Mr. Hulick further explains, TTX generates substantial efficiencies through its maintenance program, which focuses on extending the productive life of its assets. TTX's goal is not to perform the minimum amount of maintenance necessary to keep a car in service. Rather, it seeks to minimize costs over the life of the asset and extend the asset's life. TTX would not have the same incentives to apply a life-cycle approach to maintenance or long-term asset redeployment if members or others owned pool equipment and could remove it from the pool.

C. Efficiencies of Pool Operation

Consistently efficient fleet management is one of the key factors that reduces investment risks and makes possible TTX's large flatcar fleet. Efficient fleet management generates savings by reducing expenditures associated with repositioning empty equipment and avoiding the need for inefficient excess capacity. TTX's ability to maintain the efficiency of its fleet is unmatched in the railroad industry: in 2002, for example, TTX produced 21 percent of the railroad industry's car miles with just nine percent of the industry's equipment.

1. The Free-Running Fleet

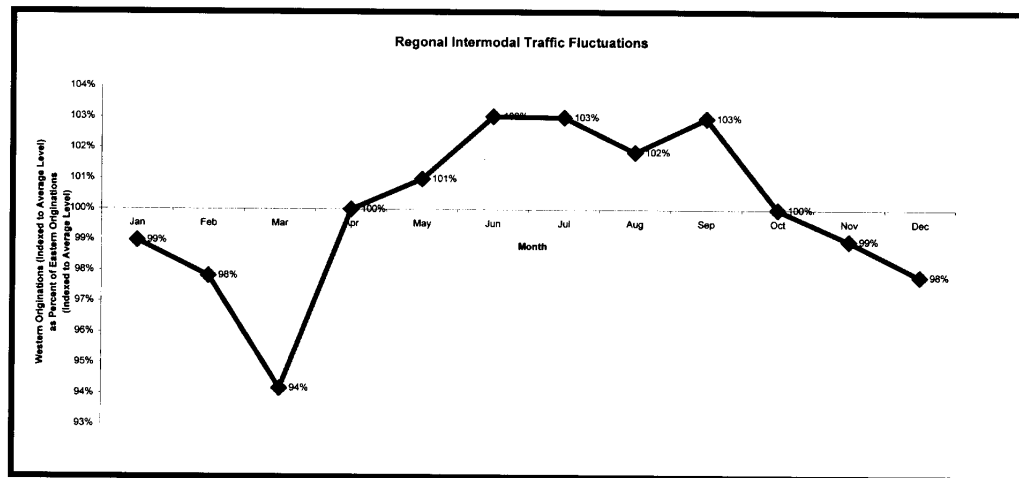
The cars in TTX's flatcar pool form a "free-running" fleet that is not encumbered by adherence to AAR's car service rules or the incentives to engage in inefficient behavior that often apply to cars owned or leased by individual railroads. Under TTX management, pooled cars flow efficiently over the North American rail network to match supply with demand. Participating railroads can load TTX flatcars at any point on their lines and then direct the loaded cars to any destination on any road.⁶ When the normal flow of equipment creates imbalances between supply and demand for empty equipment, TTX can efficiently direct the movement of cars from railroads that have excess capacity to railroads that have a deficit in order to restore balance. TTX cars incur low car hire charges, which minimizes incentives for inefficient empty movements aimed at getting high-cost cars off line as quickly as possible. Participating railroads are assured access to the fleet when they need it, but are not burdened by the fleet when they do not. They can "turn back" idle cars – thereby avoiding car hire charges – without the need to move the cars off line.

The railroad industry is prone to inefficient equipment use. Normal traffic flows often result in temporary imbalances of empty equipment between railroads. For example, seasonal patterns can vary significantly by region. Chart 1 provides one illustration of these fluctuations: it depicts the relative volume (indexed to average monthly volume) of intermodal originations in the West as compared to Eastern originations (similarly indexed). Except for April and October, originations in the West are either higher

⁶ By contrast, AAR's Car Service Rules generally call for empty cars to be routed back toward their home roads to effectuate the home road's interest in having to call upon its asset. *See* Car Service Rule No. 2.

or lower than originations in the East as compared to average levels. Other regional breakdowns would reveal similar patterns.

Chart 1
Seasonal Fluctuations in Regional Intermodal Shipping Patterns



In addition to inefficiencies generated by normal traffic flows, railroads are subject to a range of incentives that contribute to underutilization of equipment. Railroads want to guarantee car supply for their own customers, so they tend to hoard cars that may be needed for loading when car supply is tight. They also try to use their own cars whenever possible, sending other railroads' cars home empty to avoid paying car hire when seasonal fluctuations in demand make cars more readily available. As a result, cars run empty in opposite directions, incurring costly and unproductive mileage and causing wear and tear for both the cars and the physical plant. These unproductive movements cause the cars to be unavailable for shipper loadings, requiring additional investment to carry the available traffic.

In 2002, the ratio of empty-to-total miles for freight cars of all types was 35 percent, which is a relatively modest improvement over the 41 percent ratio in 1978.

Despite the railroads' efforts over the last two decades to improve car utilization generally, the industry still suffers from inefficient patterns of equipment use.

Largely because of the TTX pool, flatcars do not suffer significant underutilization. TTX cars are operated in the most efficient manner possible because the rules governing pool operations minimize the incentives that lead to inefficient utilization. Railroads can act with confidence that they will receive access to a share of the fleet roughly commensurate with their relative needs. This prevents hoarding. In addition, because TTX cars are not subject to artificial economic incentives, such as the need to earn or avoid car hire, the railroads that use TTX cars have every reason to use them efficiently. TTX also has the expertise to implement efficient solutions to imbalances in empty equipment that arise from normal traffic flows.

Recent operating statistics prove the efficiency of the TTX pool. In 2002, for example, TTX intermodal cars operated empty only seven miles for every 100 miles that they traveled. Of course, utilization of intermodal flatcars is not directly comparable to utilization of other equipment types, because cars loaded with empty trailers or containers moving in non-revenue service are sometimes counted as empty miles. Nonetheless, the pool's utilization ratio itself is dramatically superior to the industry average. In 2002, the TTX intermodal fleet generated 29 percent more loaded miles per platform than did non-TTX intermodal cars. In addition, non-TTX intermodal equipment benefits from riding TTX's coattails. Because TTX cars comprise the core of the railroad industry's intermodal fleet, carriers often do not attempt to switch out and send home empty equipment that is not owned by TTX. Instead, they reload those cars and move them along with TTX equipment. Thus, non-TTX intermodal equipment achieves a high utilization ratio and operates more

efficiently than it would in the absence of the TTX flatcar pool. In his verified statement, Dean Wise of Norbridge, Inc., explains how he worked with ALK Associates to develop a model to quantify the benefits associated with TTX's intermodal fleet. In past ICC proceedings, TTX relied on a 1984 ALK study to quantify operational and investment savings. The new model reflects the many changes in the railroad environment since 1984 and also applies improved analytical techniques. As Mr. Wise explains, the study indicates that TTX's pool generates annual operational savings of approximately \$180 million by reducing empty miles. As Mr. Wise further explains, the reduction in empty miles translates directly into reduced investment costs of approximately \$386 million, equivalent at the current railroad cost of capital (approximately 10 percent) to carrying costs of almost \$40 million per year.

The free-running nature of the TTX fleet also creates significant benefits that cannot readily be quantified. For example, railroads do not incur switching costs they would otherwise bear to send empty, foreign intermodal equipment back to its home road. Instead, they can load any available TTX car for movement to any point in North America. Along the same lines, railroads save switching costs because they have less need to weed out higher-priced foreign cars and send them home in order to avoid excessive car hire charges.

In addition, because railroads can count on access to a share of TTX pool equipment commensurate with their relative needs, they do not face disincentives that can inhibit the movement of equipment off line in connection with otherwise desirable interline movements. The Chicago Gateway is one important area where TTX has fostered efficient interlining. In recent years, railroads have made strides towards increased use of "steel-wheel interchange" of intermodal equipment at Chicago, replacing less-efficient rubber-tire

interchanges that require drayage across town on Chicago's crowded streets. Given that interline movements of interline trailers and containers can be accomplished without the interchange of railcars, it is not at all certain railroads would have been willing to interchange their intermodal equipment more freely across this gateways if it were not part of the shared TTX pool. The benefits of "steel-wheel interchange" are significant. In Chicago, each rubber-tire interchange that can be avoided saves significant terminal handling and drayage costs (the latter averaging about \$160) and reduces roadway congestion. The magnitude of the impact is apparent when one considers that railroads interchanged about a million trailers and containers in Chicago in 2003.

TTX's pooled fleet also provides significant benefits because TTX can and does act to assist in overcoming equipment imbalances. The TTX flatcar pool uses a formula to establish each members' equipment entitlement. A major factor in the formula is each railroad's recent usage of TTX cars. If a railroad is above its entitlement level, it can be required to send equipment to another railroad that is under its entitlement and requires more TTX cars. TTX's ability to issue directives where necessary provides a backstop that encourages railroads to allow TTX equipment to flow freely and efficiently in response to shipping patterns, thus minimizing the situations when TTX must exercise its powers to issue directives. However, TTX does intervene when necessary. For example, in 2002, TTX issued almost 550 directives affecting the movement of 86,500 intermodal platforms.

TTX management of the fleet has also provided significant benefits in dealing with extraordinary events. For example, during the labor disruptions at West Coast ports at the height of the fall shipping season in 2002, TTX and its members agreed to suspend the normal car distribution rules. That decision allowed BNSF and UP to stage

empty equipment at the ports so that they would have sufficient cars on hand when the labor situation was resolved to handle the backlog of traffic that had developed.

2. The TTX Pool Creates an Environment in Which Cars Are Seamlessly Redeployed In Response to Shifts of Traffic for Competitive and Other Reasons

The existence of a flatcar pool creates an environment in which railroads can be aggressive in seeking new business and equally aggressive in competing for existing business. The pool reduces the overall risk that any one carrier faces in seeking to attract traffic, and the reduced level of risk allows carriers to offer shippers lower rates for their business.

Railroads can be aggressive in seeking new flatcar traffic because they do not bear a significant risk if the opportunity fails to materialize. They do not bear a significant risk because they need not acquire additional equipment to handle the new traffic. Instead, they can draw upon their entitlement to pooled equipment. If the business disappears, the pool's turn-back provisions ensure that the railroad is not burdened by the costs of unproductive cars.

This general risk-sharing benefit applies on many levels. It is a large part of the reason why railroads were willing to enter the intermodal business in the first place and why rail intermodal has expanded from a risky idea to what will soon be the railroad industry's most important source of revenue. It also facilitates railroads' efforts to introduce intermodal service on new routes or expand service on existing routes in order to attract business. A railroad can use some of the TTX equipment to which it is entitled on a new route without bearing the risks associated with the long-term acquisition of the equipment needed to introduce a new service. If the new effort succeeds, TTX will ultimately purchase additional cars to accommodate the general increase in intermodal business. The same

principle applies to railroad efforts to attract new shipper business – railroads can explore new business opportunities with little downside equipment-related risk.

The existence of a free-running fleet is also important in facilitating competition between railroads. Because TTX members have access to a pool of flatcars, they can bid on traffic opportunities without having to worry about investing in new equipment to handle the customer's business. In fact, both the incumbent and challenger will be able to offer lower rates, because they do not need to worry about recovering investments in duplicative equipment. If the business changes hands, the former carrier is not left with unproductive assets – the equipment will essentially flow from the former carrier to the new carrier.

D. Maintenance Efficiencies

TTX has consistently achieved car repair efficiencies not matched by any major rail system. TTX is able to achieve these efficiencies because it is dedicated to the equipment business, rather than having other calls on its resources. TTX repairs its cars more quickly than individual railroads and get them back on the railroad where they can serve shippers and railroads. In addition, TTX's state-of-the-art maintenance practices extend the life of cars, reducing the need for additional investment.

As Mr. Hulick explains in his verified statement, TTX achieves substantial savings by employing strategies designed to reduce car maintenance costs over a lifetime of service and to reduce maintenance-related disruption to the rail network as a whole. TTX also achieves maintenance efficiencies due to its nation-wide network of repair shops and field maintenance operations, which helps avoid inefficient empty movements of bad-ordered equipment. Also, TTX's efforts to develop a fleet of flatcars with relatively

standardized designs translate into maintenance efficiencies by allowing TTX to reduce its parts inventories and develop expertise in diagnosing problems and making repairs.

E. Long-Term Asset Redeployment Efficiencies

TTX also attains significant efficiencies because of its ability to redeploy existing assets to new uses. TTX business and market planning personnel work with TTX participants and others to find new marketing opportunities to make use of older assets. For example:

- Excess 89-foot flats from the intermodal fleet have been equipped to transport military and heavy equipment vehicles, wind turbine towers and steel rail and structures.
- 89-foot 100-ton flatcars have been equipped with a restraint system to accommodate military vehicles in the event of a national emergency.
- TTPX bulkhead flatcars have been modified to haul several different types of commodities, such as coiled steel rod, aluminum ingots and poles and re-bar.
- 60-foot chain tie-down flatcars have been modified for log and military ammunition container service.
- TTX's autorack fleet grew out of a major effort to extend the useful life of 89-foot flatcars.

TTX is also involved in significant efforts to respond to business trends by converting existing intermodal equipment to new uses. For example, TTX is involved in a major effort to shorten 48-foot well cars to handle the increased demand for 40-foot well capacity. TTX is also planning to stretch 48-foot all-purpose cars to 53 feet to accommodate growth in 53-foot trailer traffic. These efforts produce tremendous efficiencies by avoiding the need for significant new investment. Mr. Hulick's describes them in greater detail.

F. TTX's Benefits Extend to All of TTX's Flatcar Types

The benefits described above apply to all of the various car types in TTX's flatcar pool. Intermodal cars have long been at the center of TTX's efforts, benefiting from TTX's car acquisition, fleet management, maintenance, and long-term redeployment efforts, but the benefits of pooling also flow to TTX's autorack cars and the other flatcars in its fleet.

Autorack cars have clearly benefited from TTX ownership, maintenance, and long-term redeployment.⁷ As discussed above, TTX has invested an extraordinary amount of time and money in researching and developing methods of reducing vehicle damage during transport. TTX is also continuing to develop new cars, including a new "Uni-Level" car designed to transport large trucks and agricultural equipment.

TTX also owns a variety of other flatcar types, including centerbeam cars, heavy duty flatcars, and bulkhead flatcars. TTX ownership and management of these cars provides important capacity to the industry and allows carriers to compete for business without making inefficient, duplicative investments. It also allows carriers to compete for business that they might not have pursued without the ability to use pooled assets. TTX also continues to respond to the railroad industry's needs by developing and acquiring new cars, such as the XTTX – an 89-foot, 100-ton car designed to respond to the industry's need to transport loads of large diameter pipe, structural steel, and machinery.

⁷ TTX also manages the distribution of autorack cars as an agent for AAR, but that function occurs under a separate pooling agreement that applies to the autoracks on the cars. *See The Baltimore & Ohio R.R. – Pooling of Car Service Regarding Multi-Level Cars*, Finance Docket No. 29653 (ICC served Aug. 19, 1981).

II. TTX'S OWNERS REQUIRE US TO PASS THROUGH TTX'S BENEFITS, SO THAT THEY CAN REDUCE THEIR COSTS

The efficiencies created by the TTX flatcar pool are reflected in lower usage charges for member railroads, and ultimately, in lower transportation rates for shippers. TTX must pass its efficiencies along to the railroads in order to remain competitive with other car suppliers. Railroads are not forced to use TTX flatcars, and they will not use them unless price and quality are competitive. TTX also must keep costs and rates down in order to keep rail intermodal service competitive with non-rail alternatives.

A. TTX Provides Its Cars to Railroads at Low Rates

As measured in current dollars, TTX's average usage charges in 2002 were about 13 percent lower than they were in 1994. Adjusted for inflation, TTX's rates have fallen about 27 percent. For the intermodal fleet, per diem rates were almost 32 percent lower in 2002 than in 1994, and 42 percent lower adjusted for inflation. TTX's intermodal rates in 2002 reflected reductions due to a temporary discount program, but even without that program, rates would have been 16 percent lower in current dollars than in 1994, and 29 percent lower, adjusted for inflation.

TTX has been able to accomplish these reductions by taking advantage of the various efficiencies described above, as well as by controlling costs and taking advantage of economies of scale. From 1994 through 2002, TTX's cost per TPE⁸ has declined steadily, from \$5,336 to \$4,458.⁹

⁸ As noted above, "TPE" stands for "two-platform equivalent." A double-stack car that can hold six containers would be equivalent to three TPEs.

⁹ Over the same period TTX's revenue per TPE declined from \$6,172 to \$5,227.

TTX has passed these savings along to its owners in the form of lower rates. Since 1994, TTX has saved its participants more than \$650 million through a combination of permanent and temporary rate reductions.

In order to put TTX's rate levels into better perspective, I have compared TTX's rates for several popular equipment types as of October 2003 with TTX's rates for the same equipment in 1994, and with the default per diem rates established under AAR car hire rules. The default rate is the lowest known negotiated rate for a particular car type in effect at the end of the previous quarter. As shown below, TTX's recent daily rental rates compare very favorably with its 1994 rates and with recent AAR default rates:¹⁰

TABLE 1
2003 TTX Rates vs. 1994 TTX Rates
For Common Equipment Types

<u>Equipment Type</u>	<u>2003 TTX Rate</u>	<u>1994 TTX Rate</u>
5-Unit, 40/48', COFC, Double-Stack Car	\$64.67	\$78.77
1-Unit, 48', COFC, Double-Stack Car	\$15.79	\$19.47
304', 5-Unit, 53' TTAX All Purpose Car	\$42.84	N/A *
3-Unit, 53', Articulated, COFC, Double-Stack Car	\$43.71	N/A *
1-Unit, 53', COFC, Double-Stack Car	\$16.15	N/A *

* Car Type did not exist in TTX's fleet.

¹⁰ The rates in the table combine per diem and mileage components for TTX's usage charges and default car hire rates. The mileages are based on both TTX historical records that establish the average number of miles per day traveled by cars of each type.

TABLE 2
2003 TTX Rates vs. 2003 AAR Default Rates
For Common Equipment Types

<u>Equipment Type</u>	<u>2003 TTX Rate</u>	<u>2003 Default Rate</u>
5-Unit, 40/48', COFC, Double-Stack Car	\$64.67	\$108.11
1-Unit, 48', COFC, Double-Stack Car	\$15.79	\$23.53
304', 5-Unit, 53' TTAX All Purpose Car	\$42.84	\$72.00
3-Unit, 53', Articulated, COFC, Double-Stack Car	\$43.71	\$56.11
1-Unit, 53', COFC, Double-Stack Car	\$16.15	\$25.98

The real benefit of TTX's low rates becomes even more clear when one considers the impact of the rate difference over a significant period. For example, in 2002, for just the five car-types shown in Tables 1 and 2, TTX participants saved approximately \$12 million in usage charges as compared to what they would have paid under AAR default rates.¹¹ These are costs that would otherwise be borne by the railroads, or by the shipping public in the form of higher transportation rates.

B. Alternative Channels for the Supply of Flatcars Ensure that TTX Will Remain Important Only If It Continues to Provide Benefits to the Rail Industry and Its Customers

As I noted above, TTX is only one alternative means for railroads to supply their car needs. The existence of the TTX flatcar pool does not reduce railroads' car-supply options in any way. Member railroad's retain the option of buying their own flatcars or leasing them from other companies.

TTX members can and do rely upon non-TTX sources of flatcars. For example, as of October 1, 2003, industry-wide double-stack capacity stood at approximately

¹¹ These savings do not include the temporary TTX rate reductions available under current programs.

202,000 platforms. TTX owned approximately 55 percent of this capacity, but the top five non-TTX owners owned more than 33 percent of the capacity. TTX owns a much smaller percentage of other types of flatcars. It owns 26 percent of centerbeam cars, and 35 percent of general use flatcars.

TTX members have availed themselves of non-TTX equipment options. For example, BNSF is the third-largest owner of non-TTX double-stack capacity. CP and CSXT rank sixth and seventh, respectively. For centerbeam cars, UP and BNSF are the fifth and seventh largest owners respectively, and CN controls a significant leased fleet. For general use flatcars, the six largest Class 1 railroads each rank among the top ten in fleet ownership.

There is also a competitive leasing market for non-TTX equipment. For example, Greenbrier Companies, First Union Rail, and GE Rail Services together own more than 22 percent of industry-wide double-stack capacity. Greenbrier is the largest owner of general use flatcars, and First Union ranks fifth. Leasing companies are also major players in the centerbeam fleet. Greenbrier, First Union, CIT Rail Resources, and Bombardier combined own better than 40 percent of centerbeams.

The robust alternatives to TTX in today's marketplace ensure that, to the extent railroads continue to choose TTX to supply cars, it will be because of real benefits TTX brings to the table.

III. CLARIFICATION OF TTX'S FLEXIBILITY TO INNOVATE IS IN THE PUBLIC INTEREST

In this proceeding, TTX is asking the Board to clarify that TTX may modify its car contracts and other policies that embody its day-to-day pooling activities without obtaining prior approval, as long as the modifications fall within the scope of the Board-approved Pooling Agreement and Board-imposed limitations on TTX's assignment and

allocation of cars. The issue arises because the ICC's 1974 authorization decision stated that TTX must obtain advance approval for changes in its activities that "affect the substance of [the] pooling agreement."¹²

TTX has worked within the boundaries of the Pooling Agreement to experiment with new approaches to furthering its basic objective of ensuring an adequate supply of flatcars at the lowest possible price. For example, it has amended its Form A Car Contract to implement incentive programs designed to improve equipment utilization and reduce usage charges paid by TTX participants. When TTX adopts such amendments, it advises the Board.

However, TTX's ability to experiment with new methods of improving efficiency is constrained by the advance approval requirement suggested by the ICC's 1974 decision. The line between what TTX can and cannot do without prior Board approval is uncertain. TTX is thus constrained by its concerns about unintentionally crossing the boundary established by the ICC's 1974 decision, on the one hand, and its reluctance to commence a costly, lengthy, and potentially unnecessary process of seeking Board approval, on the other hand. Indeed, in many cases, the opportunity for TTX to implement a beneficial change to its pooling practices may come and go before the Board would even have time to act.

TTX is not seeking to eliminate any existing restrictions on its activities. The Pooling Agreement and Board-imposed limitations on "assignment" and "allocation" imposed in 1989 establish boundaries on TTX's authorized activities. TTX understands that

¹² *American Rail Box Car – Pooling*, 347 I.C.C. 862, 383-84 (1974).

it must seek Board approval to alter those restrictions. In addition, TTX would continue to file with the Board any changes to its car contract, and the Board would continue to exercise oversight over TTX's activities. TTX is simply seeking freedom to act, subject to Board oversight, within clearly established boundaries when it considers innovative methods of improving efficiency to better meet customer needs.

IV. CONCLUSION

TTX provides significant benefits to the rail industry through its pooling activities by acquiring flatcars for the pool, managing the pooled fleet efficiently, and maintaining and redeploying cars using a life-cycle approach to pooled equipment. TTX's pooling activities have allowed its participants to meet the rising market demand for high-quality flatcar equipment at the lowest possible cost. Its investment in flatcars and the efficiencies generated by its fleet management, maintenance, and redeployment practices have promoted the growth of rail traffic, particularly intermodal traffic, while allowing its participants to use their capital for other vital projects. The efficiencies generated by TTX's flatcar pool are reflected in lower usage charges for its participants, but the ultimate beneficiaries are the shippers who pay significantly lower transportation rates as a result.

VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK) ss

THOMAS F. WELLS, Senior Vice President of Fleet Management for TTX Company, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof and that the same are true as stated.



THOMAS F. WELLS

Sworn to and subscribed before me
this 5th day of January, 2004.


Notary Public



My Commission expires May 26, 2007.

H

BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)

VERIFIED STATEMENT
OF
ROBERT S. HULICK

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VERIFIED STATEMENT

OF

ROBERT S. HULICK

My name is Robert S. Hulick and I am Senior Vice President of Equipment for TTX Company ("TTX"). I have been with TTX for 25 years and have held my current position since 1993. Prior to 1993, I held the following positions with TTX:

1988 – 1993	Vice President, Equipment
1984 – 1987	Director, Maintenance Planning & Control
1979 – 1984	Manager, Maintenance Research
1978 – 1979	Engineer, Air Brakes

Before joining TTX, I was employed by the Westinghouse Air Brake Company.

I am a member of the American Society of Mechanical Engineers and participate on several AAR equipment committees, including the AAR Technical Services Working Committee. I have previously served as President of the Air Brake Association and as Chairman of the AAR Brake Equipment Committee.

In this statement, I will describe the many ways in which TTX's role in the research and development, acquisition, maintenance and redeployment of its pool of flatcars generates benefits for railroads and their customers.

I. TTX INTERNALIZES THE INTERESTS OF ITS PARTICIPATING RAILROADS AND ACHIEVES SIGNIFICANT ECONOMIES OF SCOPE AND SCALE

TTX's mission is to help its participating railroads meet their needs for intermodal, automotive and other flatcars more effectively than any of them could accomplish independently. Messrs. Wells and Wise describe how TTX's operation of a pooled fleet of flatcars generates significant operational efficiencies and other benefits. I

will focus on the benefits that TTX achieves through its role in developing, maintaining, improving and reconfiguring the flatcars in its fleet.

A. TTX's Holistic "Network-Wide" Focus

Fundamental to TTX's approach to each of these activities is TTX's somewhat unique perspective as steward of a fleet of flatcars shared by all of North America's major railroads. Because every major railroad participates in TTX's flatcar pool, TTX takes into account the interests of the entire rail network in, first, having an adequate fleet of cars that best meets the needs of railroads' customers, and, second, ensuring that the *overall* cost of those cars – including both the cost of maintaining them over their entire life and the costs their operation imposes on the rail infrastructure and railroad operations – is no greater than necessary.

This perspective sets TTX apart from individual railroads and other equipment suppliers. TTX has no parochial self-interest and no incentive to reap profits from the railroads that use its cars. Wherever TTX's cars are on the North American rail network, they are "on-line" from TTX's perspective. As a result, TTX strives to ensure that those cars are best meeting the railroads' needs over their entire life, literally from "cradle to grave." This commitment starts with purchasing the right mix of equipment to meet the flatcar needs of railroads and their customers and investing in new and improved car designs. TTX monitors how its equipment is performing wherever it is used on the nation's rail network, and it works with car builders and other suppliers to develop cars and car componentry – such as running gear – that improve reliability and safety and better meet customer needs. Equally important, TTX implements improvements across its entire existing fleet so that railroads and their customers can count on consistent quality from TTX

equipment. TTX's maintenance programs strive not only to use efficient practices that lower the cost of making a given repair, but also to perform the right combination of repairs at the right time so as to minimize down-time and operational disruption. TTX redeploys its assets to their best use in response to shifting marketplace demands, wherever on the railroad network they may arise.

B. TTX Is Positioned to Develop, Maintain, and Redeploy the Railroads' Pooled Flatcars

TTX is well-positioned (and in many respects uniquely so) to achieve its objective of providing the rail industry with flatcar equipment that best meets the needs of the network. As I will explain in more detail below, TTX's ownership and management of a nationwide fleet of flatcars allows it to draw on extensive expertise and experience and devote significant resources to the continuous improvement of flatcar equipment and its utilization.

TTX's efficiently-sized engineering staff draws on a unique reservoir of experience accumulated over decades of fleet operations to make improvements in TTX's fleet of equipment that enhance safety, improve reliability, reduce the cost of operating the cars on the rail network, and more effectively meet the needs of rail customers. Moreover, TTX's nationwide network of repair facilities – consisting of TTX-owned car shops, Independent Repair Facilities (“IRFs”), and innovative Field Maintenance Operations (“FMOs”) – allows TTX to carry out maintenance on its fleet cost-effectively and in a manner that minimizes down-time and unproductive empty movements. In addition, TTX maintains a cohesive and strategically-distributed parts inventory for cars in its fleet, which is simplified by TTX's efforts to standardize its equipment. TTX's stewardship of a nationwide fleet of equipment also allows it to adopt efficient proactive maintenance

practices that seek to schedule repairs when it is relatively more convenient and efficient to make them, rather than waiting for equipment to fail while in use.

Without TTX, individual railroads, which face broad demands on their resources, could not justify the same level of manpower and resource commitment focused on the development and maintenance of their flatcar equipment, and they would not achieve the same level of efficiency or utility from the resources they did devote to those functions. The result would be separate fleets of flatcars that were less efficient and less effective.

C. Indicia of TTX's Success

I will be discussing in more detail numerous examples of TTX's successes in bringing benefits to its railroad participants and their customers through its role in developing, maintaining and redeploying flatcars. TTX is proud of its track record of innovation and efficiency, which is perhaps best reflected in the unanimous desire of TTX's participants to continue the TTX pool so that they can rely on it for their flatcar needs for the foreseeable future. TTX's success in generating efficiencies for the rail industry is also reflected in objective statistics, including our progress in reducing the average maintenance cost of TTX cars, appropriate extensions to maintenance cycles, shortening the time needed to make repairs, and reducing the empty miles associated with moving bad-order cars to shop facilities.

TTX is especially proud of the improvement its participants have realized in the efficiency of their transportation networks as a result of TTX's efforts to improve fleet quality. Efficient rail transportation services that meet the needs and expectations of shippers have increasingly come to depend on railroads' ability to improve service reliability. Unplanned train stops and other operational events caused by equipment problems are a major obstacle to reliability – and a major contributor to costs, especially

when rail networks are in many cases operating near capacity. At a minimum, stopping a train because of a potential equipment issue entails disruption to the train's schedule, and one delay often cascades through the network to affect many other trains as well. These sorts of delays have obvious implications for the ability of the railroads to meet the expectations of customers whose shipments depend on reliable train movements.

Depending on their severity, equipment issues may have more serious and more costly implications, ranging from the switching costs incurred when a bad-ordered car must be removed from a train for repair to, in extreme cases, the harms caused by derailments.

TTX works closely with railroads, carbuilders, and component suppliers to improve TTX's flatcars to minimize the operational disruption they cause. We draw on the best available data regarding the performance of TTX equipment in service on the rail network, and we work proactively – in ways described more fully below – to reduce the adverse network impacts caused by TTX equipment. We are very proud that our efforts have borne fruit. Available statistics indicate that TTX equipment performs very well relative to other railroad equipment and that its performance has been improving. Union Pacific ("UP") tracks the reliability of equipment on its system based on events requiring the set-out of a bad-ordered car. UP's data show that TTX equipment has achieved 99.8 percent reliability on UP's network, which is likely representative of its performance throughout the North American rail network. Burlington Northern and Santa Fe ("BNSF") tracks a different statistic on its system: train-stop events (or "TSE's"), which involve the undesired stopping of a train due to potential equipment issues. In the last four years, TSE's due to hose separations, which are the largest cause of unwanted train stops, have been reduced by over 50 percent. In the same time period total TSE's for all reasons have declined over 54%

on a defect per million opportunity basis (referred to as “DPMO,” which is a method of statistical normalization). This high level of performance on BNSF’s network compares favorably to other equipment and is indicative of TTX’s performance on the rail network as a whole. TTX’s record is all the more impressive when one considers that most of TTX’s equipment must perform in the very punishing environment of high-speed, service-sensitive movements of intermodal and automotive traffic. Although these statistics are a limited reflection of the benefits that TTX achieves for rail transportation in North America, they are an important manifestation of TTX’s core mission of providing flatcar equipment that best meets the needs of the network as a whole.

* * *

I now turn to a closer examination of each of the important aspects of TTX’s equipment functions.

II. TTX’S DEVELOPMENT OF IMPROVED FLATCAR EQUIPMENT FOR THE RAIL INDUSTRY

TTX works hard to adjust its flatcar fleet to meet the evolving needs of its railroad participants and their customers. TTX’s acquisition program brings new and improved designs into the fleet in order to serve shippers’ transportation needs. In their Verified Statements, Messrs. Reardon and Wells provide an overview of the fleet and TTX’s program of equipment acquisitions over the past decade. Exhibit O accompanying the Application provides photographs illustrating representative examples of many of the flatcar types that comprise TTX’s fleet. TTX also strives to improve equipment through its research and development efforts, often in close cooperation with car builders and component suppliers, aimed at developing new and innovative car types and improving existing car types. It is not enough that TTX cars provide basic transportation and meet the

industry's lowest-common denominator interchange requirements more suitable for general-service car types. TTX's participating railroads have an urgent need for their cars to be highly efficient, to better meet shipper's needs, and to perform far above the bare-minimum interchange requirements. These characteristics are especially important for the traffic categories served by most of TTX's fleet. Intermodal and automotive shipments demand relatively high levels of speed, reliability, and ride quality. In addition, cars in these services tend to accumulate mileage very quickly, which heightens the importance of having high-quality, well-performing cars with a reduced need for maintenance intervention.

TTX also devotes considerable resources to the ongoing process of making incremental improvements to the capabilities and performance of the cars already in TTX's fleet. Once again, TTX has a strong track record of working with suppliers to best meet the needs of railroads and shippers throughout the network. TTX is able to apply the same improvements featured in new cars broadly across the entire TTX fleet so that railroads can count on receiving cars that meet their customers' expectations no matter which car in the TTX fleet (new or veteran) is available for loading.

A. TTX's Approach to Continuous Improvement of Its Fleet

Before describing some of the many examples of TTX's successful efforts to innovate and improve the railroads' flatcar population, I would like to describe more generally TTX's approach to research and development. TTX's ongoing efforts to improving the flatcar equipment in its pool is very much a team effort. TTX's highly skilled and experienced engineering staff works hand-in-hand with the railroads, their customers and TTX's equipment suppliers to develop and implement improvements and innovations that allow TTX's equipment to better serve the railroads' transportation needs.

The SECO Process

TTX recognizes the importance of its supplier base to the successful implementation of its acquisition program. A centerpiece of TTX's efforts to improve the efficiency, quality and customer-responsiveness of TTX equipment is TTX's "Excellent Supplier" program, which provides a framework for close cooperation between TTX and its suppliers. TTX implemented the program in 1991, and it has become a model for the industry and a crucial factor in TTX's successful efforts to improve efficiency and quality. A Supplier Evaluation Committee ("SECO") evaluates and audits TTX's suppliers to ensure that all materials and services purchased by the company meet the requirements of TTX's customers. The SECO process grades suppliers using five criteria in making its rankings: quality, cost, delivery, service, and financial/administrative capabilities. Through this process TTX provides its suppliers with constructive criticism and feedback so as to foster product improvement and innovation. Suppliers with exceptional scores earn the designation of "TTX Excellent Supplier." The SECO evaluation scores are an important factor in TTX's selection of suppliers of cars and components.

The SECO program provides significant benefits to TTX and its customers. TTX has seen steady improvement in the SECO scores of our suppliers, which benefits not only TTX and users of TTX cars, but all railroad customers. In 1992, the average score earned by TTX's suppliers was 82. By 2002, the average score had risen to 92, reflecting improved quality and improved business processes that yield efficiency benefits. TTX of course passes the benefits of improving efficiency and quality to its customers in the form of lower rates and more reliable service. Moreover, suppliers' higher SECO scores reflect improvements that yield better cars and components for the rail industry as a whole. TTX is

proud that many of its suppliers have touted their SECO credentials to the industry at large as a certification of the high quality they provide across their product lines. For example, suppliers of all types have taken out advertisements in industry publications that make prominent reference to their TTX "Excellent Supplier" awards.

TTX's interactions with its suppliers are not merely a one-way street. TTX works hand-in-hand with its suppliers to understand their processes and help implement changes in TTX specifications and its procurement process that will be compatible with our suppliers' capabilities and thus improve overall efficiency. One illustration of that give-and-take is TTX's multi-year collaboration with side bearing suppliers to evaluate the performance of their products and develop improved specifications to better meet modern railroad needs. In 1994, TTX and its side bearing suppliers began working on a new TTX component specification for long-travel side bearings to supplement (rather than supersede) the AAR side bearing standard. TTX's objective was to provide guidance for the development of long-travel side bearings to improve the trackability of various railcars and to establish standard testing methods for such bearings. The resulting specification, first issued in January 1995, took into account the feedback of TTX's suppliers. That standard has subsequently been revised in close cooperation with TTX's suppliers.

This collaborative exercise was quite successful. The guidance provided by the new specification has helped side bearing suppliers better understand the performance needs of TTX and its customers; has furnished standard laboratory test methods for comparing the performance of past, present, and future products; and has given TTX a means to set performance benchmarks. The rail industry is moving to take broader advantage of the fruits of TTX's efforts. In 2002, TTX and its side bearing suppliers

participated in AAR-sponsored dynamic tests and computer simulations of various rail car and side bearing configurations, and they are currently participating in an industry task force that is preparing a draft revision to the AAR side bearing standard (known as M-948). The result will be a new generation of side bearings (constant-contact side bearings and long-travel side bearings) that have greatly improved performance and can be implemented broadly on North American freight cars of all types.

TTX believes that the SECO process and other efforts have built strong and constructive relationships between TTX and its supplier community. TTX is especially proud of its healthy relationships with the four large North American builders of railcars: Greenbrier, Johnstown America, National Steel Car ("NSC"), and Trinity Rail Group ("TRG"). TTX recognizes that it is an important customer of each of these builders. The continued health and success of the builders is also very important to TTX, since TTX depends on the builders to support the growth and continual improvement of the flatcars TTX's railroads need to meet demand. Moreover, the carbuilders have consolidated and diversified in the past decade. Each manufactures a variety of car types and sells to numerous important customers other than TTX. For example, Greenbrier, which in 1989 predominantly manufactured doublestack equipment that it sold to TTX, now manufactures and sells a wider array of equipment, such as hoppers, gondolas and boxcars, and TTX's orders account for only a small fraction (which I estimate to be about ten percent) of Greenbrier's total potential capacity. The other large builders are even more diversified.

TTX's Approach to Research and Development

TTX's approach to research and development is a four-step "standard path process," the ultimate aim of which is to fully vet innovations and bring them to the market

as quickly as possible. As a first step, TTX tests out ideas, concepts, and designs on paper, in simulations, and with preliminary prototypes in the shops and facilities of TTX or suppliers. This initial work provides an environment in which ideas and concepts for component or car improvements can be discussed, reviewed, and tested to get some feedback as to the feasibility and the desirability of the idea.

If the idea for innovation is worthwhile, the process moves to step two, in which TTX conducts physical tests of the idea, concept, or design. TTX oversees tests on prototypes of the components or freight cars, whose performance is rigorously and thoroughly monitored, measured, and evaluated under controlled conditions. Where necessary, TTX coordinates the work necessary to obtain industry or FRA approvals.

The third step of TTX's process involves field trials of the cars or components in actual service on the railroads. This enables TTX to test the component or freight car in the real world, where the car or component can be tracked and monitored, but in conditions that are not strictly controlled. Field tests help TTX determine whether a product meets its requirements for reliable performance. A successful innovation then proceeds to the fourth step – full approval. Once the whole process is complete, TTX moves forward expeditiously toward implementation.

Sometimes, TTX's research efforts lead to breakthroughs in unexpected areas. During the evaluation of ways to improve the ride quality of autorack cars in the early 1990s, TTX tested a number of different truck concepts that would have provided acceptable high-speed performance. During the testing it was found that an improvement in vertical ride quality could be obtained through a change to the spring group. TTX

completed testing the spring groups used on the car and developed an optimized spring group that has been implemented on thousands of autorack cars.

TTX's R&D Commitment

TTX contributes to this R&D process with its own resources in the area of design and engineering. TTX offers a valuable repository of internal design and engineering resources, expertise, and experience from which to draw. (TTX also draws on outside resources as required.) One example of TTX's role in improving railroad flatcars is TTX's extensive use of the AAR's Transportation Technology Center, Inc. ("TTCI") test facilities in Pueblo, Colorado. In addition to a dedicated on-site employee, TTX maintains at Pueblo its own instrument cars containing state-of-the-art equipment for conducting railcar tests and analyzing the results. TTX is among the top five users of the TTCI facility. In 2002, TTX conducted over 950 tests on flatcars at TTCI alone, and suppliers working with TTX accounted for hundreds more. As one illustration of the intensity of TTX's activity, TTX presently accounts for around 28 percent of all on-track testing at TTCI. It is not uncommon for TTX to have numerous cars of different designs at Pueblo in various stages of testing at any given time.

TTX is able to achieve a critical mass of resources and experience devoted to flatcars and deploy it across the entire TTX fleet. As a practical matter, individual railroads simply do not have resources available to dedicate to the development of flatcars and the ongoing improvement of the existing flatcar fleet. Instead, they must spread their R&D attention across a broad array of needs, of which flatcars are but one small part. Not surprisingly, the railroads often turn to TTX and its experienced engineers for assistance in test design and concepts for flatcars. TTX is able to provide its participants with an

invaluable “one-stop” shop of know-how and technological resources that they otherwise would not have.¹

TTX’s budget reflects its deep commitment to innovation and ongoing improvement of the flatcar fleet. In the last decade, TTX spent in excess of \$29 million on research and development projects. The research, development, and quality improvement activities undertaken by TTX’s own forces are a small fraction of the overall effort for which TTX is responsible. TTX works proactively with all of its car builders and component suppliers to improve flatcar equipment. TTX’s suppliers have invested multiples of TTX’s R&D funds on projects conducted in league with TTX. The innovations and improvements those efforts have spawned have found their way into the TTX fleet, and have also made their way into the general freight car fleet, further magnifying the benefits generated by TTX.

Through close cooperation with its suppliers driven by TTX’s overriding objective of meeting the railroads’ current and future flatcar needs, TTX is able to supplement its own resources in important ways. TTX interacts with a broad and diverse community of suppliers, including manufacturers of the dozens of components and castings that go into a modern freight car as well as the major car builders that assemble the steel structure of the car. These suppliers are skilled at what they do, and TTX benefits greatly from collaborating with them. For example, TTX cooperated with car suppliers Greenbrier and TRG to reduce the length of existing 48-foot well cars to 40-feet, making the cars better

¹ A recent example of TTX helping the railroads to meet equipment needs is the development of the UPS “bullet train” service, which both UP and BNSF tested in conjunction with CSX. TTX worked with the railroads to identify and make available equipment that would operate reliably and safely at the extremely high speeds planned for this service.

suited for carrying international containers. As previously mentioned, over many years TTX worked hand-in-hand with the industry's two suppliers of long-travel side bearings to develop a long-travel side bearing that has subsequently become a standard for all new high-tonnage cars introduced into the rail industry. Similar work resulted in improved truck designs, end-of-car cushioning units, hitches, container latches, and couplers.

B. TTX Facilitates the Development and Implementation of New and Improved Car Designs

An important focus of TTX's research and development efforts is in bringing important new car designs into service on the North American rail network. TTX has facilitated the development of numerous advances in flatcar technology – and, equally important, the dissemination of those cars into the fleet in large numbers. TTX played an important role in many well-known flatcar innovations that now comprise an important part of the North American flatcar fleet. I will discuss four examples: the constantly-evolving doublestack car, the all-purpose spine car, the articulated multi-level autorack car, and the new “Uni-Level” car designed for hauling large trucks and other heavy equipment.

The Evolution of the Doublestack Car

Perhaps the single most important rail equipment development of the past two decades was the doublestack car, which revolutionized intermodal economics in many transportation lanes. Although TTX did not invent the doublestack car, it played an important role in bringing that car type into the broader flatcar fleet and has led the way in developing and implementing evolutionary improvements. For example, TTX led the way in introducing the articulated 125-ton well car and the stand-alone and drawbar-connected well cars. TTX has also been indispensable in facilitating the swift transition toward a fleet of 53-foot well cars.

TTX participated in the early development of multi-platform rail cars. Beginning in the mid 1980s, TTX personnel were involved in early testing and acquisitions of articulated doublestack cars, which eventually led to the formation of an AAR committee responsible for developing industry standards and specifications for such cars. TTX carried out evaluations comparing the articulated bulkhead doublestack car with the articulated interbox connector (“IBC”) doublestack car. (An “IBC” is a device that locks the top container to the bottom container on a doublestack car.) Based on TTX’s review, the more efficient IBC car became the favored design.

A similar result was achieved with the development of the 125-ton articulated doublestack car. By using higher capacity trucks than had been typical in the past, this car developed a lading weight to car weight efficiency almost twice that possible with the standard 89-foot flat car. TTX was instrumental in tracking early performance problems with these cars and implementing solutions. When 125-ton cars first entered service, they experienced a disproportionate number of derailments. TTX was closely involved with the industry’s Doublestack Derailment Task Force, which worked to resolve the problem through innovative technological solutions. Today, over 8,500 125-ton doublestack cars are a reliable, high-performing part of TTX’s fleet.

Development of the All-Purpose Spine Car

TTX also conceived and helped develop the articulated “spine”-type car, for carrying trailers and containers. This car, first introduced in 1986, met the railroads’ needs for an intermodal car that was both efficient and sufficiently versatile to handle intermodal trailers or containers. For many years, TTX played a leading role in developing “skeletonized” intermodal equipment, which provides the railroads with light-weight, cost-

effective intermodal capacity. One of the challenges in making sure the new skeletonized equipment was acceptable to the railroad industry was to make sure that it could operate safely and efficiently throughout the North American railroad system. The industry requires freight cars to meet rigorous performance requirements. Without the ability to move seamlessly from one railroad to another, the efficiency of the fleet would not be acceptable. Working with the railroads and the AAR, TTX conducted extensive testing and helped develop Chapter 11 of the AAR's Manual of Standards and Recommended Practices, which allowed skeletonized and multi-platform intermodal equipment to achieve universal acceptability on the North American rail network. TTX's fleet now contains all-purpose spine cars accounting for 33,913 platforms. A photograph of a five-unit 53-foot articulated all-purpose spine car – designated "TTAX" – is on page one of Exhibit O.

The Articulated Multi-Level Autorack Car

TTX also took a leading part in the development of the articulated bi-level autorack during the 1990s. The traditional 89-foot multi-level autorack car consists of a standard 89-foot flatcar, to which is welded a separate rack assembly (usually owned by an individual railroad rather than by TTX). This configuration provided an efficient means of reusing standard 89-foot intermodal flatcars that fell out of favor with the shift towards more-efficient doublestack and spine-car equipment for intermodal applications. As automotive traffic continued to grow during the 1990's and the need emerged for entirely new autorack cars, TTX worked closely with Thrall Car Manufacturing (now part of TRG) to develop an improved car design. The result was the articulated autorack, in which the flatcar and rack are part of an integrated unit. (TTX developed the first prototype that lead to the articulated autorack.) TTX's design provided a lower flatcar deck and made the car as

wide as possible so that automobile doors could be opened inside the railcar with less risk of damage. With this additional width, however, an 89-foot car would have exceeded railroad clearances, whereas a shorter car would have sacrificed carrying capacity. TTX's design solution was an articulated car: basically two 70-foot halves joined to form a 140-foot long, high-capacity car that swivels through curves. A photograph of such a car – designated "BTTX" – is on page two of Exhibit O.

TTX subsequently rolled two of the principal innovations of the articulated multilevel car into a new design for traditional multi-level autorack cars. TTX led the way in designing the 39.5-inch high, 9'9-3/8" wide, 90-foot long flatcar for autorack service. The improved interior dimensions have created better shipping conditions for new vehicles by diminishing the risks of damage during transit, and the lower deck allows more interior capacity without exceeding the railroads' overall height clearances. Since 1998, TTX has added 7,835 of these cars to its fleet.

The Uni-Level Heavy Equipment Car

Most recently, TTX helped to address a market need by developing the innovative Uni-Level car, an entirely new car type that provides the railroads with an opportunity to shift to rail a significant number of shipments of new tractor-trailer equipment that previously moved by highway. A photograph of one of TTX's prototype Uni-Level cars – designated "TTUX" – is on page two of Exhibit O. The Uni-Level project began in 2002, when a TTX owner-railroad asked for ways to transport trucks and other equipment. The primary focus was on transporting Class 5 through 8 trucks from original equipment manufacturers in North America to fleet buyers, dealers, and ports for export. This market had been previously lost to the trucking industry. Truck manufacturers,

however, were eager for new transportation options, in part because new trucks were being damaged by exposure to the elements during shipment.

TTX set to work developing an innovative solution by adapting surplus 89-foot flatcars. The TTX team reduced the car length to 83 feet and widened the cars to handle trucks up to 9 feet, 8 inches wide. The cars were then enclosed, utilizing a flat roof design akin to that of boxcars instead of an arched roof like that on autorack cars. Brake systems were improved and new high-performance side bearings and premium trucks were added to provide better high-speed stability. TTX initially built two prototypes, which were rolled out beginning in September 2002 with a test shipment of Freightliner Class 8 tractors from North Carolina to Arizona. Customer and railroad feedback led to a third prototype incorporating desired improvements. Since the initial movements, railroad marketing personnel have been working with truck manufacturers to develop interest in rail shipments using the new cars. Recently, the Uni-Level car was used to ship alternative fuel school buses from the Thomas Built Buses factory in High Point, North Carolina, to a customer in California. Such buses are difficult to drive cross-country because the alternative fuels they burn are not readily available and vehicle size makes truck transportation prohibitively expensive. The Uni-Level car provided the optimal solution for shipping these buses at lower cost and in a secure environment. Over the next four to five years, TTX anticipates adding as many as 800 Uni-Level cars to its fleet to meet demand.

C. TTX's Continuous Efforts to Improve Its Fleet

In addition to developing new car types to better satisfy the needs of railroad customers, TTX also focuses its research and development efforts on incremental improvements (in terms of safety, reliability, quality and efficiency) to both its newly acquired cars and its existing fleet. These steps are aimed both at addressing performance

issues that arise in TTX's fleet of equipment and at improving the performance of the fleet. TTX's innovations have received less attention than the new car types discussed above, but they nevertheless have brought major and continuing benefits to the flatcar fleet, the rail industry, and the shipping public.

TTX's recently-completed \$425 million program to improve ride quality of the industry's autorack fleet provides a good illustration of the beneficial role TTX plays in the ongoing improvement of the railroads' shared flatcar fleet. In the early 1990s automobile manufacturers called upon railroads to reduce damage sustained by new automobiles during rail shipment in autorack cars. TTX spearheaded a program to identify the source of the problems, identify solutions, and implement technology that addressed those issues. As part of its efforts, TTX worked with suppliers to develop and implement a host of improvements to these important cars. TTX introduced several freight car truck designs and revised existing designs. One important category of improvements involved changes in the truck design that reduced truck hunting (*i.e.*, the oscillation of the truck between the rails) and enhanced ride quality, resulting in less damage to new automobiles. In addition, as already mentioned, TTX developed improved, long-travel side bearings that provide superior roll performance. (This design ultimately became the industry standard for all car types in 2003.) Another important category of improvements involved the cars' draft gear, which is equipment inserted behind the coupler on a car that cushions it against longitudinal forces. TTX reduced the damaging effects of slack action through improved cushion units and better couplers and knuckles.

Once the improvements were developed, TTX took the crucial step of installing them not only on new cars to be added to the fleet, but also to existing TTX

autorack cars. TTX's fleet of autorack cars now offers the railroads enhanced performance that nearly eliminated ride quality-related damage previously sustained by automobiles in transit.

The improvement in truck technology described above has also led to improved ride quality for other car types in the TTX fleet and for other freight cars in general. By developing a basic understanding of what constitutes good performing trucks, TTX has sponsored a truck design that has met the railroad industry's most demanding performance requirements for cars designed to operate at 286,000 pound gross rail load. This design is one of only two trucks available at this time which have been approved by the AAR as meeting these demanding requirements.

TTX has also played an important role in the development of yaw dampers and related certification tests. Yaw dampers can be likened to shock absorbers for rail cars. TTX uses them on 3,000 spine and autorack cars to control truck hunting by keeping the wheels optimally aligned with the rails. In addition to improving safety, this innovation has improved efficiency by allowing cars to run more miles between truck rebuilds.

TTX has been a leader in improving performance in other ways as well. In the area of truck suspension design, the split wedge system – adopted and improved by TTX – has become TTX's standard for variable-damped trucks used to increase warp stiffness and provide acceptable vertical damping. This design is now gaining increased acceptance by the rest of the industry. Split wedge technology was invented in the 1970s, but the industry shied away from its use because of cost factors. Striving to improve the performance of its fleet, TTX evaluated the technology and documented the value that it held for improving truck performance. Because of TTX's efforts, other railroads and car

owners began to use split wedge technology. TTX encouraged manufacturers to develop interchangeable component parts used in this system and promoted designs for 100-ton and 125-ton applications.

Other important developments include innovations for reducing slack and improved wear life of cast components, such as drawbars and articulated connectors, and improvements in non-metallic cup liners, all of which are key components in many of the cars in TTX's fleet. TTX worked with foundries that supplied both drawbar and articulated connector systems to the railroad industry, resulting in product improvements that decreased life-cycle costs. With the high utilization of the TTX fleet, these changes yielded significant benefits very quickly. Increased contact services, flame hardening, and dimensional improvements are but a few examples of the product changes that were developed as part of this cooperative effort with suppliers. Much of this same process was also used to develop improved performance for non-metallic cup liners that provide an interface between a freight car's body and the truck to reduce wear. TTX conducts an extensive field trial initiative on an on-going basis, sharing the results with component suppliers to ensure that component improvement is a continuous process.

As issues develop with the operation of TTX's fleet of equipment, TTX's network of resources facilitates swift response and implementation of solutions. There are countless examples of TTX working with customers to address their technical problems and concerns. Some are routine, such as the day-to-day efforts by TTX's field personnel to draw on TTX's continent-wide experience with the operation of its flatcars. Others are less common but equally important, such as the issuance of early warning advisories to address emerging issues and prevent more serious problems before they occur.

One outstanding example of TTX's ability to respond to problems involves air-brake hoses. Much of TTX's fleet consists of cars that have a greater tendency for hose uncoupling (due to their length and use of cushioning draft gears to reduce buff and draft forces), which is one of the most common reasons for undesired train stops. TTX responded to this problem with an extensive effort to implement a "universal trolley" mechanism and an elevated hose height on its equipment. TTX personnel and independent contractors were dispatched to maintenance facilities across the country to oversee the necessary modifications to the fleet. TTX representatives on AAR committees also championed changes to AAR rules to improve hose conditions. Because of TTX's actions, the number of train stops due to hose uncoupling has declined significantly, improving reliability throughout TTX's fleet and on the broader network.

TTX's multi-faceted efforts to improve its existing fleet provide cumulative benefits. An excellent example is TTX's success in securing an FRA ruling extending the permissible maximum service life of flatcars in autorack service to 65 years. FRA rules generally prohibit the use of cars older than 50 years. *See* 49 C.F.R. § 215.203(a)(1). Where it is safe to do so, using a car longer entails significant economic benefits. TTX's success in developing a 65-year car stemmed from multiple improvements over many years. In 1974, TTX increased the strength of center sills in 89-foot flatcars, enabling them to move loads over longer periods without stress-related damage. In 1989, TTX began a three-year study of premium truck technology that ultimately improved the ride quality of autoracks and reduced the lateral and vertical forces on the car bodies. In 1993, TTX began its multi-year effort to improve the ride quality of its autorack cars, which not only improved shipment integrity, but paid dividends in reducing stresses on the car as well. For example,

long-travel side bearings reduced the twist stress on autoracks, and TTX's work on draft systems reduced longitudinal stress on these cars.

Once the technological developments were in hand, TTX took the lead in securing FRA approval to extend the allowable service life of autorack cars to 65 years. At the TTCI facility in Pueblo, TTX used a 30-year-old car and conducted experiments with a device (called a "simuload") designed to simulate an additional 35 years of service. The car passed the relevant safety and performance tests under the simulated conditions. Using the results of this testing, TTX was able to convince the FRA to grant a waiver to its general rule to allow TTX's autorack cars to be used for 65 years. TTX was the first company to secure such a waiver for freight cars. Based on TTX's experience, AAR is currently developing specifications that would apply to future car owner efforts to obtain similar waivers allowing extended service lives for freight cars.

D. TTX Facilitates Innovative Initiatives of Individual Railroads

Notwithstanding TTX's important role in providing the rail industry's flatcar needs, TTX is not the only source of innovation for flatcars and other intermodal equipment. Individual railroads have pursued the development of innovative types of equipment for which there was insufficient industry-wide interest to merit inclusion in TTX's flatcar pool. For example, several carriers experimented with "RoadRailer" technology, and Triple Crown, a venture of Norfolk Southern and Conrail, implemented it extensively. RoadRailers are specialized truck trailers that can be mounted to a freight car truck to facilitate the rapid transition from truck to rail transportation. This technology was not a strong candidate for inclusion in the TTX fleet because its appeal among TTX's participating railroads was less than universal. Through a trial purchase, TTX used its engineering and other capabilities to assist individual carriers and suppliers in their efforts to

improve this technology. TTX played an important role in developing the removable “bogie” system (essentially the detachable railroad wheels) that RoadRailers today use to operate on rails.

Another example of development activities outside TTX involves the ongoing efforts by several carriers and equipment suppliers to develop intermodal equipment that is customized to serve short-haul intermodal lanes. One example is the “Iron Highway” program that CSX pursued for several years. More recently, CN and CP has been pursuing variants of this concept. Where its capabilities have been of value to the railroads involved, TTX has cooperated in these efforts. For example, TTX supplied CSX with suitable 89-foot flatcars for use in testing this concept.

III. TTX’S EFFICIENCY-ENHANCING ROLE IN EQUIPMENT MAINTENANCE

A. TTX Is Uniquely Positioned to Maintain Cars Efficiently

TTX has consistently achieved car repair efficiencies not matched by any major rail system. TTX can realize these efficiencies because it is dedicated to the equipment business rather than having other constraints on its resources. TTX also operates on a nation-wide basis, allowing it to capture economies of scale, while its maintenance workforce has accumulated a critical mass of expertise in dealing with repairs. As a result, TTX repairs its cars more quickly than most owners and gets them back on the rails where they can serve shippers and railroads.

The backbone of TTX’s maintenance efforts is its nationwide network of repair facilities. It owns and operates shops at Jacksonville, Florida; Mira Loma, California; and North Augusta, South Carolina. In addition, TTX subcontracts with 16 Independent

Repair Facilities across the United States and Canada to perform maintenance and repair activities as needed with TTX's oversight and input.

TTX has also developed an innovative network of Field Maintenance Operations ("FMOs"). TTX's FMO program enables it to perform routine maintenance and repairs at over 40 sites throughout the rail network – especially intermodal terminals – where TTX equipment routinely congregates as a result of day-to-day traffic flows. FMO teams consist of trained mechanics who make inspections and perform repairs (and in some cases, even conduct air brake tests) at railroad terminals. These teams also perform scheduled maintenance and implement planned modifications to flatcars and autoracks. Much of their work is conducted at loading ramps to minimize disruption to train operations, but more serious repairs are performed on nearby repair tracks. These FMO operations allow for sometimes-significant repairs to be made without the need to take cars out of service for extended periods in order to move them empty to and from a "traditional" car shop. TTX has found that using FMO's where appropriate can reduce the amount of time required to complete a repair from 30 days to just two days on average. TTX estimates that its FMO program allows the railroads to avoid out-of-service time equivalent to more than 370,000 car-days annually, reducing their need for additional equipment by more than 1,000 cars. In addition, this system saves \$1.1 million annually in transportation costs that would be incurred if cars had to be moved to traditional shop facilities.

TTX's maintenance practices enable it to maintain flatcars at its shops and FMOs with a high degree of efficiency. TTX collects and disseminates extensive data on the performance of its cars; it provides efficient, internet-based access to maintenance instructions, drawings and a staffed "help desk" to ensure that all repairs benefit from TTX's

experiences and best practices. TTX also uses state-of-the-art management systems to reduce costs associated with repairs and materials supply. In addition, TTX has developed a fleet of flatcars that achieves a greater degree of commonality in design and componentry than would be the case with multiple, separately-owned fleets. Typical railroad car shops must maintain a wide array of cars with widely varying features. TTX's more standardized fleet allows TTX to reduce its inventories of parts (saving significant costs) and makes it more likely that needed parts are readily available on a timely basis. In addition, the relative standardization of TTX's fleet means that its shop personnel can bring to bear more focused experience in diagnosing problems and fixing them in the most efficient way possible.

TTX has used these capabilities to make significant improvements in the cost of maintaining the cars in its fleet. Since 1995, TTX has reduced the average annual maintenance cost per "two-platform equivalent" (*i.e.*, one car or, in the case of multi-unit intermodal cars, the carrying capacity of two 40- to 53-foot containers or trailers) by more than 30 percent.

B. TTX's Holistic Network-Efficiency Approach to Maintenance

TTX also achieves important maintenance efficiencies by doing more than simply repairing flatcars to the minimum extent necessary to get them back into service. As I explain below in more detail, TTX applies state-of-the art predictive and preventive maintenance methods. TTX does this because it owns its equipment for the benefit of a group of participating railroads comprising most of the North American rail network. It thus has a strong interest in reducing maintenance costs over the entire life of its equipment and maximizing the productive use of the cars, regardless of which railroad is operating it. In essence, TTX converts the entire Class 1 network – plus Class 2's Florida East Coast and

Guilford – into the “home road” and therefore internalizes incentives to reduce total network costs in addition to its *own* costs. This perspective ensures that the entire network runs smoothly and efficiently.

TTX has effectively implemented its policy of predictive and preventive repairs in a number of ways. It has a carefully designed program of planned maintenance that ensures that all the flatcars in its fleet are kept in good working condition. As a rule of thumb, TTX schedules general overhauls on its flatcars at appropriate periods based on TTX’s extensive experience with the performance of each car type and the demands placed on those cars in service. TTX supplements these programs with non-scheduled maintenance attention on an as needed basis to address other known conditions.

TTX also has been a leading supporter of path-breaking detector technology that permits railroads to identify conditions in real-time that warrant maintenance attention before the car fails (or is identified as defective) while moving in revenue train service. Using such sensors, for example, a railroad can determine if the condition of a wheel or other component is imposing undue stress on track structure, signaling that a repair may be warranted both to avoid a future service disruption and to minimize damage to the car or rail structure. Many railroads are installing such detectors on their systems, and TTX is already making extensive use of the data those detectors generate. When a condition exceeding predetermined thresholds is detected, an alert is entered into a data base that allows TTX to maintain a “hot list” of cars that warrant preventive maintenance. These cars can be repaired once they arrive at a conveniently-located TTX repair facility. TTX is also using data that it collects from the sensors to conduct trend analyses on the reliability and

performance of its cars and will use this information to procure better equipment and improve the quality of its existing fleet.

TTX is not content to act merely as a passive observer of railroad programs to install these detectors on their systems. Instead, TTX is working with the railroads to ensure that detectors are installed at appropriate points *throughout* the North American rail network where there are significant flows of TTX equipment, and it has offered to assist with the financing of some installations. TTX is also working to develop an integrated detector and repair capability that would use a suite of detectors located in proximity to a TTX FMO. The detectors would be used in effect to “inspect” the condition of TTX cars in an approaching train, allowing TTX’s field maintenance forces to focus their efforts on the swift and efficient repair of those cars identified as needing attention.

Once a car is in the shop for repairs, TTX often performs more work than the bare minimum to get the car back in service, going beyond AAR and FRA requirements. Instead, TTX inspects a car and determines if there are other repairs that can most cost-effectively be completed at the same time. This approach reduces future out-of-service time and the additional costs of re-shopping the car at a later date. For example, when its cars are in a shop, TTX’s standard practice is to inspect all of the wheels on the car, replacing wheels that may still have some useful life remaining but that TTX’s experience indicates will require replacement near-term. While this practice entails some additional material cost (*i.e.*, the unused portion of the replaced wheels), it results in reduced total network costs by avoiding stress on the track structure and the costs and disruption of a later unplanned train stop or other service event.

IV. TTX'S REDEPLOYMENT OF EQUIPMENT TO MORE PRODUCTIVE USES

TTX is skilled at modifying and reapplying freight cars to new and other productive uses in the freight transportation business. Since 1994, TTX has spent almost \$500 million modifying its flatcars for new, more productive uses. These asset redeployments provide capacity to the railroad industry without the need for substantial new capital and they ensure that the railroads can attain maximum value from existing investments.

From 1994 through 2002, for example, as intermodal shipments gravitated to more-efficient double-stack and spine-car equipment, TTX was able to redeploy large numbers of its traditional 89-foot intermodal flatcars into other uses. TTX converted 10,240 such cars to automotive service, which entailed extensive upgrades to the cars' trucks and draft systems to improve ride quality but nevertheless saved more than \$330 million by not having to invest in as many new cars.

TTX has also converted 89-foot flatcars to other uses. For example, since 1994 it has converted 626 cars into "chain tie-down" cars to handle the shipment military and other equipment, for capital savings of over \$18 million. In addition, TTX has transformed over 1,800 89-foot cars into "frame flats," capable of hauling truck frames, for capital savings of nearly \$90 million. TTX currently is performing additional conversions at its shop facility in South Carolina. Over 1,284 89-foot flatcars were reconfigured to handle the shipment of pipes. Most recently, TTX has converted 89-foot intermodal cars into innovative Uni-Level cars for handling the shipment of newly manufactured tractor-trailers. TTX also conceived and developed modifications to existing standard 89-foot flatcars, creating an efficient way of carrying long trailers on multi-platform cars (known as the TTEX car, an example of which is depicted in Exhibit O). Development of the TTEX used

drawbars to connect one platform to another and led to patented inventions by TTX personnel.

TTX was also able to respond efficiently to changes in the intermodal marketplace. As domestic shipments of containerized cargo have shifted toward 53-foot containers, demand for TTX's fleet of 48-foot doublestack cars has declined. At the same time, international container shipments – which predominantly use 40-foot containers – has continued to grow. TTX was able to respond by redeploying many of its 48-foot well cars into this growing international service, through major modifications that involve removing eight feet of length from each articulated unit. Thus far, TTX has converted 3,470 48-foot doublestack well platforms to 40-foot doublestack platforms. These conversions have squeezed more life out of the 48-foot wells, while allowing TTX to focus its new acquisitions on the 53-foot equipment needed to serve the domestic intermodal shipments instead of buying more new 40-foot well cars. TTX plans to continue this successful modification program by converting additional cars as required. In the same vein, TTX has recently embarked on a program to *add* length to its 48-foot all-purpose spine cars, allowing them to handle 53-foot trailers or containers. Under this program, TTX will convert 2,020 cars over the next four years.

Yet another example of the efficient reuse of existing equipment is TTX's conversion of its bulkhead flatcars – which are less in demand with the arrival of more efficient centerbeam flatcars for lumber shipments – to handle the growing volume of steel shipments. TTX has removed or modified the bulkheads from 68-foot flatcars, and added risers to accommodate various types of steel, including ingot, coil rod, and plates, which used to be transported largely by truck. Since 1994, TTX has converted over 500 flats for

use in this service, making rail a more competitive option for the transportation of steel products and realizing capital savings of almost \$20 million.

All of these programs reflect TTX's desire and capability to redeploy cars to meet marketplace demand. In converting cars, TTX is focused on maximizing asset utilization at the lowest possible cost, without sacrificing performance. This strategy ensures that TTX and the railroads it serves achieve the most efficient use of their considerable investment in flatcar assets. As a result of redeployments during the past decade alone, TTX and the railroad industry have yielded net savings of nearly \$550 million.

V. CONCLUSION

TTX brings a multitude of unmatched benefits to the railroads and their customers across the North American rail system. By taking a holistic, network-wide focus, TTX internalizes the interests of participating railroads and attains significant economies of scale and scope in critical areas such as research, engineering, and maintenance. TTX is engaged in the continual development and improvement of flatcar equipment, enabling it to meet and surpass customer requirements for safety, efficiency, and reliability. TTX also achieves major car repair efficiencies through its operation of a nation-wide network of repair facilities and its innovative use of state-of-the art predictive and preventative maintenance methods. Finally, TTX has developed a highly effective flatcar equipment redeployment program, sparing the rail industry the need to secure substantial new capital and ensuring that existing investments are used to their maximum physical life. Overall, TTX has made, and will continue to make, a unique and vital contribution to the efficient operation of the nation's flatcar fleet.

VERIFICATION

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

ROBERT S. HULICK, Senior Vice President of Equipment for TTX Company,
being duly sworn, deposes and says that he has read the foregoing statement, knows the contents
thereof and that the same are true as stated.

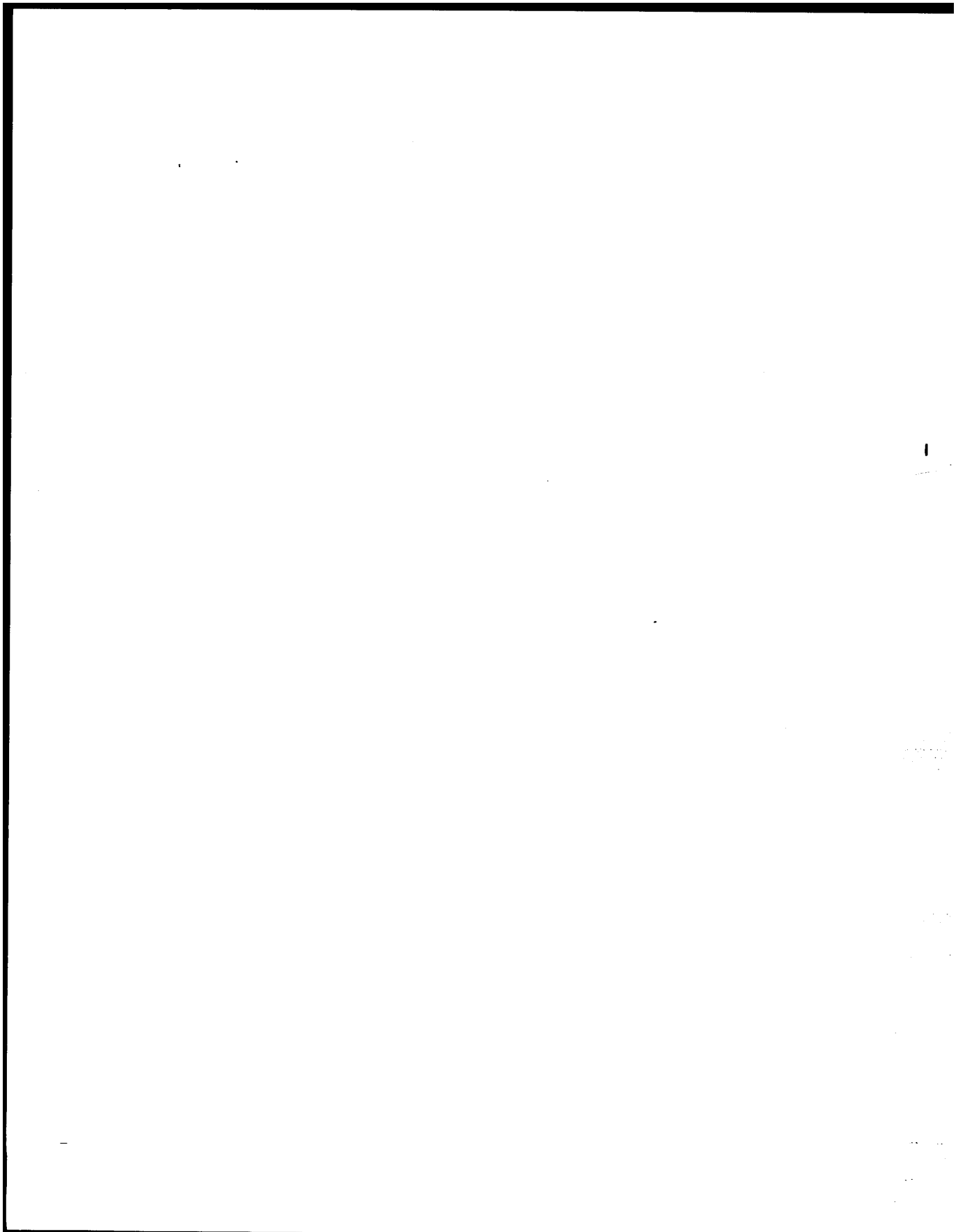
Robert S Hulick
ROBERT S. HULICK

Sworn to and subscribed before me
this 5th day of January, 2004.

Judith F Henderson
Notary Public



My Commission expires May 26, 2007



BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)

VERIFIED STATEMENT

OF

DEAN H. WISE

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VERIFIED STATEMENT

OF

DEAN H. WISE

My name is Dean H. Wise. I am a Partner at Norbridge, Inc., a management consulting firm based in Concord, Massachusetts. I began my career in the transportation industry in 1978. Between 1978 and 1983, I worked for two railroads – Southern Pacific (1978-1980) and Conrail (1980-1983). My responsibilities at both railroads included service planning and marketing. For the past 20 years, I have worked as a management consultant specializing in the transportation industry, with a particular focus on finding and developing growth markets, particularly the market for intermodal transportation. I started in 1983 with Temple, Barker & Sloane, Inc., which was renamed Mercer Management Consulting in 1990. When I left Mercer in 1995, I was Vice President in the Transportation Group, with responsibility for North American surface transportation consulting. Since 1995, I have been a Partner at Norbridge, Inc. Transportation and logistics is the largest industry focus of our consulting activity.

During my consulting career, I have provided assistance to major U.S. and Canadian railroads, container shipping lines, automotive manufacturers, doublestack train operators, North American ports, intermodal equipment suppliers, motor carriers, and industry associations. The work I have performed for these clients has involved strategic planning, market planning, competitive analysis, organizational design, and the development and implementation of new intermodal products, services, programs, and prices.

Based upon my work experience, I am well acquainted with the business practices of the various participants in the North American rail and intermodal industry,

including railroads, ocean carriers, intermodal marketing companies, stack train operators, drayage companies, long-haul truckload motor carriers, LTL motor carriers, small package/parcel carriers, third party logistics companies, trailer/container leasing companies, railcar manufacturers/lessors, and information service providers.

In this statement, I describe the reasons why TTX is able to obtain high levels of equipment utilization from the cars in its flatcar pool. I then show that TTX's efficient fleet management eliminates some 1.4 billion platform miles of unproductive empty movements of intermodal flatcars, achieving over \$180 million per year in operating savings and almost \$40 million per year in investment carrying cost savings, and saves tens of millions more by reducing costly terminal switching. Finally, I show that TTX has passed these savings along to its participants by reducing its charges for use of TTX equipment by 13 percent since 1994.

I. TTX'S POOLING ACTIVITIES PROMOTE HIGH LEVELS OF EQUIPMENT UTILIZATION

On a day-to-day basis, as well as over the long term, equipment in TTX's flatcar pool achieves utilization levels that are not equaled by non-TTX car fleets. TTX's ability to achieve high utilization levels stems from the efficiencies made possible by TTX's ownership (through acquisition or long-term lease) and operation of its cars as a pooled fleet. As TTX's Mr. Wells describes, these efficiencies depend on the synergistic effect of the full range of TTX's pooling activities: acquiring an adequate and efficient supply of high-quality flatcars to meet market demand; managing the fleet to avoid wasteful empty miles and idle time; maintaining the fleet to provide a high-quality product and minimize operational disruptions; and engaging in research and development aimed at improving and extending the useful life of the cars in the fleet.

TTX cars can be loaded by any carrier and moved to any destination, and TTX creates an environment that fosters efficient interchange of intermodal equipment on a day-to-day basis. TTX reduces concerns about access to intermodal equipment that make railroads reluctant to send equipment off line when car supply is tight. TTX participants are entitled to a certain number of intermodal flatcars based on an agreed-upon distribution methodology. TTX can enforce these entitlements by issuing car movement directives to rebalance the number of cars on each railroad. As a result, even in times of high demand, TTX participants freely allow pooled equipment to flow off line, secure in the knowledge that imbalances between supply and demand can be rectified. TTX also removes incentives that lead to unnecessary switching and empty movements. TTX cars incur low usage charges (in terms of per diem and mileage charges), which means that terminating railroads can load them in the most efficient manner, without worrying about the costs of keeping the cars online or incurring switching and empty movement costs aimed at getting the cars off line. In addition, in times of slack demand, participants can “turn back” idle cars, thereby terminating their obligation to pay usage charges, without having to move the empty cars off-line.

By contrast, with non-pooled equipment, railroad managers face short-term incentives that lead to inefficient equipment utilization. Railroads naturally want to ensure that their customers have ready access to empty cars, so they tend to stockpile cars that may be better utilized for loading elsewhere when car supply is tight. Railroads are also concerned about saving or earning car usage charges, which creates incentives to achieve short-term advantage at the cost of reduced equipment use. As each railroad tries to maximize its earnings from its own cars and reduce its expenses from foreign equipment,

distribution decisions are based on the separate interests of individual carriers. This creates an environment in which the railroad employees responsible for car distribution tend to return empty cars to the owning road rather than moving cars to the nearest demand point on their own line or a nearby connecting carrier for loading. The net effect is that cars spend more time empty and railroads require larger fleets to meet any given level of demand. More empty miles translate into higher transportation costs for each load, and larger fleets mean that railroad must allocate more capital to equipment.

The TTX flatcar pool also contributes to efficient equipment utilization in the longer term. With its centralized car management capabilities and its ability to treat the entire national rail network as an integrated system, TTX is able to reposition capacity among railroads in response to changes in demand and changes in relative market share of each participant. For example, TTX equipment will effectively shift from one carrier to another as large volume contracts are won and lost by competing carriers. This flexibility greatly reduces the risk of TTX's investments becoming idle and non-productive – a risk that would be difficult if not impossible for individual railroads to avoid without a pool.

With non-pooled equipment, by contrast, redeployment in response to changes in demand is much more difficult and is not often achieved. Railroads have limited information about demand for equipment off their own lines. In addition, no railroad is eager to transfer equipment to a competitor, especially if that equipment would increase the competitor's ability to compete for certain traffic. The TTX pool allows railroads to overcome these barriers by reducing the transaction costs and risks of what would otherwise be ad hoc, bilateral arrangements. Moreover, the efficiencies TTX creates when it directs

capacity from one carrier to another maximize utilization and optimize fleet size and reduce equipment costs far more effectively than can railroads acting bilaterally.

TTX's efficient maintenance practices lead to higher car utilization. Cars in the TTX flatcar pool consistently achieve high levels of car repair quality and efficiency. TTX, as the owner of the cars in its fleet, provides the same high level of maintenance across the country without regard to railroad boundaries. In addition, TTX personnel are available to repair TTX equipment quickly and efficiently at most important intermodal terminals in the national network, minimizing the need for nonproductive movements.

By contrast, with non-pooled equipment, off-line maintenance is less efficient and leads to reduced utilization. Almost all cars spend a significant amount of time off of their owner's rail system. Under standardized reciprocal repair arrangements, railroads must repair safety defects and satisfy AAR interchange requirements with respect to foreign cars, but they often lack incentives to do more than make the bare minimum repairs needed to avoid safety risks or meet interchange requirements. In other words, they have no short-term incentive to invest in someone else's cars, especially those belonging to direct competitors. In addition, when one of its cars is in need of substantial repair while on a foreign line, the owning railroad must determine whether the repairs should be performed by the foreign line or the car should be returned home for the required repair. In either case, time elapses during the decision process, and if the car is returned to the home road for repairs, substantial amounts of time (and often considerable expense) are spent in nonproductive movement, driving asset utilization downward. The fact that cars spend much of their lives on other lines also can limit the owning railroads' incentives to invest in

the most efficient repairs for their own cars. TTX's repair system eliminates these inefficiencies associated with interline car repairs.

II. TTX'S EFFICIENT FLEET MANAGEMENT PRODUCES QUANTIFIABLE SAVINGS

TTX's efficient fleet management generates tremendous savings by eliminating unnecessary empty movements of flatcars in comparison with utilization patterns that would arise in a world without TTX. These savings include operating savings and investment savings. Operating savings are savings in transportation costs that result from reduced empty movements and excessive terminal switching costs that can be avoided by dealing with a more fungible fleet of cars. Investment savings are savings that result from pool participants being able to handle existing traffic volumes with fewer cars than would otherwise be necessary. TTX's management of pooled intermodal flatcars generates annual operating savings of over \$180 million and investment carrying cost savings of almost \$40 million.

A. A Methodology for Quantifying TTX's Benefits

In order to quantify the savings resulting from TTX's efficient fleet management, I worked with ALK Associates, a transportation consulting firm that has developed railroad network modeling studies for the industry and regulatory bodies for many years. Using its detailed computer network model of the North American rail system, under my supervision ALK modeled the actual movements of loaded and empty intermodal platforms in 2002. It then compared that base case with an alternative scenario that modeled the performance railroads would have achieved without the TTX pool. ALK's analysis involved three steps:

First, ALK obtained a full sample of actual loaded and empty North American intermodal railcar movements.¹ It divided the data into two ownership groups (TTX and non-TTX) and two car groups (double-stack and non-double-stack, referred to as “conventional”). It then routed the car movements across its network model and developed summary statistics of the loaded and empty platform-miles for each ownership group and car group.² In total, North American railroads generated 19.1 billion platform-miles in 2002. Of those 19.1 billion platform-miles, eight percent were empty miles.

Second, ALK developed car distribution algorithms to replicate the actual results from the first step. This “Base” case simulation resulted in a model that could be modified to show the impact of applying a different set of car distribution practices. ALK used this simulated “Base” case model to produce another set of summary statistics showing loaded and empty platform-miles for each ownership group and car group under the distribution rules applied in this scenario.

Third, ALK developed a separate set of car distribution algorithms to analyze how industry performance would change in the absence of the TTX pool. ALK modeled a “No TTX” scenario under which railroads would route interchanged cars owned by others back to their original gateways, first sending cars with available loads, and then sending empty cars when no loads were available in the desired direction. This scenario generally mimics observed distribution practices under the AAR’s Car Service Rules for car types

¹ ALK obtained the data from Railinc’s TRAIN II System.

² ALK also converted data based on car unit-miles into car platform-miles to control for the fact that different intermodal railcars have different platform configurations.

where industry-wide pooling is not a major factor. ALK used this model to produce a third set of summary statistics.³

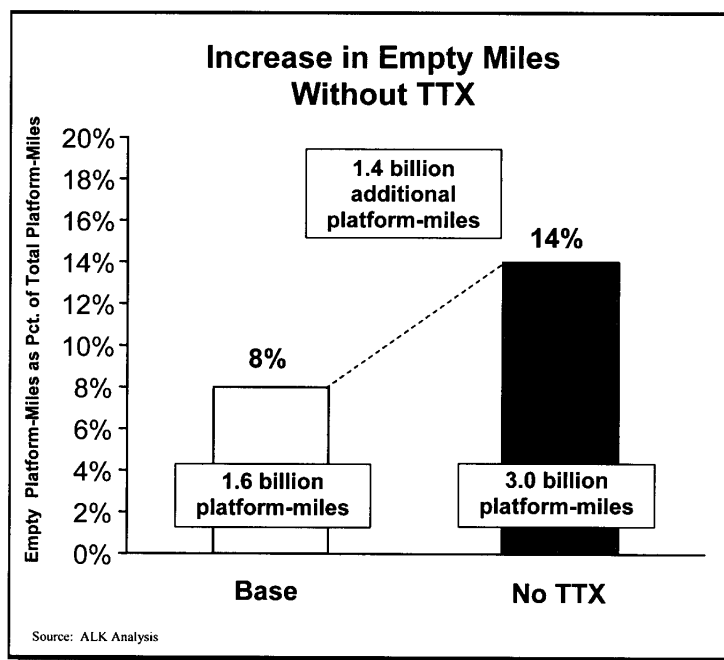
The development of a “No TTX” scenario represents a theoretical exercise, because it requires a projection of how individual railroads would handle fleets comprised only (or predominantly) of non-pooled cars. This is a less efficient alternative that, because of TTX, railroads have not been forced to live with for intermodal and other flatcars.

B. Model Results – Changes in Empty and Total Platform Miles

By comparing the results from the “Base” scenario and the “No TTX” scenario, we are able to estimate the additional empty miles railroads would incur if there were no TTX flatcar pool. The results are shown in Figure 1.

³ In prior reauthorization proceedings, TTX witnesses used a model developed by ALK in 1984 to quantify estimated savings for pooled general service 50-foot boxcars and extrapolated the results of the boxcar model (*i.e.*, predicted changes in the number of empty miles) to the TTX intermodal fleet. The model I used for this statement is based on actual movements of intermodal equipment, and thus it addresses the relevant questions more directly. I believe it represents a significant improvement over the prior model.

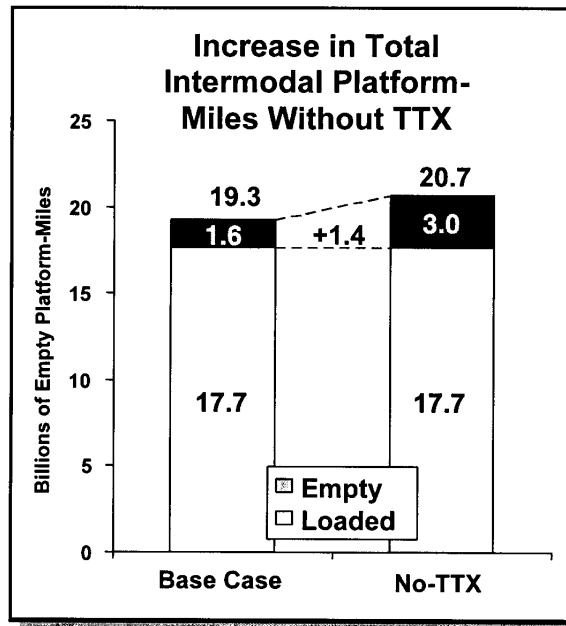
FIGURE 1



As Figure 1 shows, ALK measured “Base” case empty platform-miles to be 1.6 billion platform-miles, or eight percent of total platform-miles. Under the “No TTX” scenario, empty platform-miles would increase to 3.0 billion platform-miles, or 14 percent of total platform-miles. The “No TTX” scenario thus represents a very significant increase in the number of empty-platform miles – approximately 1.4 billion additional empty platform-miles, or an 88 percent increase over the “Base” case scenario, in 2002.

This increase in empty platform-miles would produce an approximately 7.3 percent increase in total intermodal platform-miles, as shown in Figure 2.

FIGURE 2



C. Estimated Additional Operating Costs in a “No TTX” Scenario

There are significant operating costs associated with the additional empty platform-miles that railroads would incur absent TTX. The operating costs include those associated with the transportation of empty cars – locomotive power, fuel, crews wages, and maintenance-of-way – as well as the additional switching expense associated with a “No TTX” distribution model.

Empty Transportation Expense. A reasonable estimate of the transportation cost to move an empty platform is at least 13 cents per platform-mile.⁴ Therefore, by

⁴ The 13-cent figure is based on TTX’s basic empty movement charge of 62 cents per car-mile and TTX’s average of 4.9 intermodal platforms per intermodal car.

avoiding the inefficiency of 1.4 billion additional empty platform-miles, TTX saved the rail industry approximately \$182 million in transportation expenses in 2002.

Switching Expense. Under the “No TTX” scenario, railroads would have to perform additional switching in order to separate out railcars with specific ownership marks in order to route them to specific destinations. Such switching is performed to some extent today for the 31 percent of the intermodal fleet that is not owned by TTX, but this switching activity would increase markedly in a “No TTX” scenario. Railroads today often opt not to bear the costs of treating non-TTX cars differently from pooled cars in order to maximize the efficiency of their terminals, because the non-TTX cars comprise a relatively modest portion of the fleet. In a world without the TTX pool, however, railroads’ calculus would change, and terminal operations would have to be redesigned – less efficiently – in order to accommodate the need to treat cars differently depending on their ownership. Non-pool cars would no longer be able to “go with the flow” created by the pool; instead, non-pool distribution and the associated inefficiencies would predominate.

It is impossible to estimate with any precision the savings in switching costs attributable to TTX. As a rough indicator of the costs involved, however, consider that if each of the approximately 200 North American intermodal terminals were required to add just one switch engine job five days per week, at a cost of \$1,000 per switch job, the increased costs would amount to \$52 million per year. This is a very conservative estimate of the savings created by TTX, since the largest terminals, which handle several hundred thousand lifts per year, would require significantly more switch engine resources than one more switch job per day in a world without TTX.

D. Estimated Additional Capital Costs in a “No TTX” Scenario

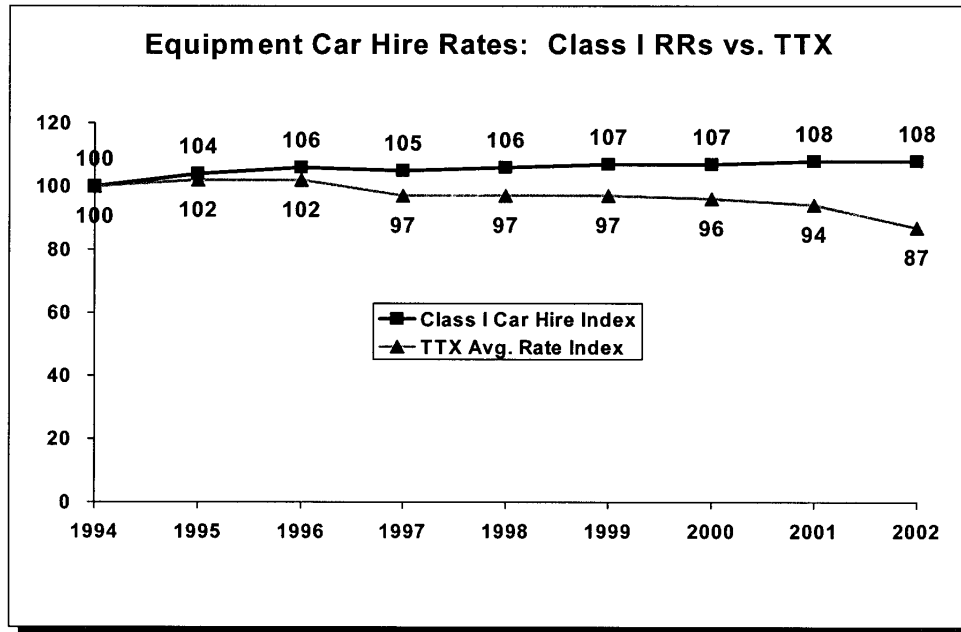
TTX’s role in reducing inefficient empty miles also translates directly into more productive use of the railroads’ investment in flatcar capacity, allowing the railroads to carry more traffic for a given number of cars. Without TTX, railroads would lose investment efficiency because additional cars would have to be added to the fleet. Specifically, if total platform-miles increased by 7.3 percent, as shown in Figure 2, the intermodal fleet would have to increase by a similar percentage. Today’s intermodal fleet stands at approximately 250,000 platforms. A 7.3 percent increase thus amounts to 18,250 additional platforms. At an average cost of \$21,164 per platform (TTX’s average cost per new platform in 2002), these additional platforms would require a capital outlay of approximately \$386 million. Using a 9.8 percent cost of capital (the STB’s railroad cost of capital estimate for 2002), this additional investment would require \$38 million in annual carrying costs.

III. TTX HAS PASSED ON GAINS IN EFFICIENCY THROUGH REDUCED RATES

The efficiencies generated by TTX ultimately benefit TTX’s participants and their customers. As I noted above, TTX generates efficiency benefits through the interaction of all of its pooling activities, including car acquisition, fleet management, car maintenance practices, and research and development efforts aimed at improving and extending the life of its existing fleet. Although many of TTX’s efficiency benefits cannot be specifically quantified, but they plainly have a significant positive impact on TTX’s participants and their customers. These cost savings have been passed on to TTX participants and their customers through rate reductions. As shown in Figure 3, since 1994, TTX’s average rates for all its cars have declined by about 13 percent as measured in nominal dollars. By

comparison, over the same period, average Class 1 railroad car hire rates, as reported by the AAR Cost Indices, have increased by 8 percent.

FIGURE 3



If TTX's average car hire rates had followed the same trend as the Class 1 railroads' car hire rates during this period, TTX car hire rates would be 24 percent higher in 2002 than they actually were.

IV. CONCLUSION

TTX helps reduce the costs of intermodal service by promoting a high level of equipment utilization. TTX's efficient car distribution practices eliminate some 1.4 billion platform miles of empty movements of its intermodal flatcars, amounting to over \$180 million per year in operating savings and almost \$40 million per year in investment

carrying cost savings, and save tens of millions in inefficient terminal switching costs. TTX passes these savings along to its participants, and ultimately to shippers, in the form of car usage rates that have declined by about 13 percent since 1994. By making such savings possible TTX builds a stronger market position for rail intermodal service. TTX thus benefits the railroads, which are increasingly dependent on intermodal traffic as an important source of revenue growth, as well as the shipping community, which enjoys stronger competitive alternatives to increasingly costly over-the-road motor carrier transportation.

VERIFICATION

COMMONWEALTH OF Massachusetts
COUNTY OF Middlesex SS

DEAN H. WISE, Partner, Norbridge, Inc., being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof and that the same are true as stated.

Dean H. Wise
DEAN H. WISE

Sworn to and subscribed before me
this 2nd day of January 2007

Christina A. McKeedy
Notary Public

My Commission expires May 20, 2008

J

BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Pooling
of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)

VERIFIED STATEMENT
OF
THOMAS R. BROWN

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VERIFIED STATEMENT
OF
THOMAS R. BROWN

I am the founder, and principal, of Strategic Directions LLC which, since its inception in 2001, has provided management consulting services to senior corporate executives regarding commercial strategies, acquisitions, and the development of new lines of business in transportation, logistics and their related technologies. Strategic Directions has also been retained to conduct research on the economic and social impacts of transportation and logistics infrastructure investment on behalf of both public and private organizations. Most recently I co-authored a monograph, "Rail Intermodal on the Fast Track,"¹ focusing on the critical importance of increased use of rail intermodal to the efficient growth of our national economy. I am also actively engaged in the study and development of mid-to-short distance multi-modal freight corridors that integrate new information sharing technologies with the innovative use of physical infrastructure and investment for both military and commercial customers.

During the 25 years prior to founding Strategic Directions, I was directly involved in the operations, marketing and sales of intermodal transportation, initially within a railroad organization and then as the co-founder and President of an intermodal marketing and logistics company, RISS Intermodal. I entered the transportation industry in 1976, as an operating department trainee with the Western Pacific Railroad (later merged into the Union Pacific). Over the next six years, I held a number of positions in the rail carrier's operating and intermodal marketing departments before being named Senior Vice President of Intermodal in 1981.

In 1983, I founded RISS Intermodal, which became a leading intermodal marketing and logistics company. As President and Chief Operating Officer, I led the company through a period of rapid growth diversifying its services during the formative years of the intermodal marketing industry. In 1999, when RISS Intermodal was sold to a third-party logistics company, I was named President of the business's intermodal marketing unit. I went on to serve as Corporate Vice President of E-Commerce and Business Development for the acquiring company.

I have been engaged in the intersection between commercial and public policy throughout my career. As a result, I have been an active and interested participant in matters before the STB

¹ Thomas R. Brown and Anthony B. Hatch, "Rail Intermodal on the Fast Track," North America's Freight Railroads (2002) ("Brown & Hatch").

in the past, having provided written testimony in a number of rail mergers and rate cases. I am also active in a variety of industry groups, including the Northwestern University Transportation Center Business Advisory Committee and the Eno Transportation Foundation Board of Advisers.

I. OVERVIEW OF TTX BENEFITS

As a long-time participant in intermodal markets, my view of TTX's flatcar pool is focused on the important – but by no means exclusive – intermodal component of TTX's fleet and management activities. It is critical to the continued growth and success of the North American intermodal industry that the Surface Transportation Board approve and authorize TTX's proposed Pooling Agreement. The TTX flatcar pool is an indispensable part of the railroad industry's ability to provide efficient intermodal service. The benefits that derive from TTX's operation of this pool extend far beyond the owning railroads to all participants in the intermodal marketplace – the intermodal marketing companies, shippers, military transportation commands, and ocean and motor carriers that use intermodal service – as well as to the public at large through the beneficial impacts of rail intermodal on national economic productivity. The 15-year reauthorization period requested by TTX will benefit both TTX and the intermodal industry, and I strongly urge the Board to reauthorize TTX's flatcar pool for the requested term. By the nature of its business, TTX needs the ability to plan for, and make, long term commitments, which lead to the most cost-effective results in financing, car management and utilization. With the extension of TTX's pooling authorization for 15 years, the Board has the opportunity to affirm the role of a pro-competitive organization that is pivotal to the continued growth of rail intermodal service in North America.

Over the past 25 years I have repeatedly experienced first-hand the essential role that TTX plays in the efficient functioning of the intermodal business day-to-day; in facilitating its growth by assuring an adequate car supply through periods of rapid expansion; and through its active participation and support for the development of new marketplace opportunities. I have also directly experienced the significant benefits that accrue from the TTX flatcar pool to the commercial and military users of intermodal service, which were my company's customers when I ran RISS Intermodal and was head of intermodal at Western Pacific. For 21 of those years, I was directly involved in, or had personal knowledge of, many transactions that brought the economic and social benefits of rail intermodal service to a diverse and rapidly growing number

of shippers.² Those shippers – domestic and international, small and large, direct and third party – have come to view intermodal service as integral to the efficient functioning of their supply chains. Based on this long personal history, I can attest to TTX’s essential role in an efficient, market-responsive and growing rail intermodal service network in North America. Without access to TTX’s shared national fleet of intermodal flatcars – which is sufficient in quantity, diverse enough in equipment types to meet the broad range of shipper needs, and effectively managed to operate efficiently across individual railroad boundaries – rail intermodal would not exist as the vital, growing business we know today.

At RISS Intermodal, and today at Strategic Directions, one of my most important responsibilities has been to stay in regular contact with key railroad executives, to maintain a timely and knowledgeable understanding of the financial and operational issues that confront intermodal service providers, and to analyze and articulate this understanding to our important clients within our business community. This experience has provided a front row seat for witnessing the incredible growth, change, and development that has characterized this industry during the past 25 years. It has also underlined for me the central role that TTX plays in our industry. First, it makes available for rail intermodal users what motor carriers are able to provide without the need for multiple carrier cooperation: a fleet of equipment that can go in any direction, at any time, continent-wide. Second, TTX efficiently adapts to the marketplace dynamics driving our industry. It has demonstrated its flexibility during rounds of railroad mergers and changing railroad commercial strategies regarding trailers and containers.

I draw from my personal knowledge and experience with the freight railroads, their financial constraints, and their organizational behavior when I suggest to the Board that TTX’s role will be even more critical in the future. TTX brings to the intermodal environment a highly efficient fleet of flatcars and a dedicated source of funding intrinsically tied to reinvestment in the national flatcar pool that adds future capacity and continually adapts the fleet to meet evolving market needs. TTX does not rely on subsidies from its owners to accomplish this. Instead, as a

² Because of the component nature of intermodal service, intermediaries – such as Intermodal Marketing Companies (“IMCs”) – do not simply broker the intermodal product of a single railroad to the shipper. Rather, they typically assemble a multi-component service package to meet the specific requirements of a potential customer. For example, a typical transcontinental shipment managed by an IMC for a shipper, for example, can require the use of two railroads, a stack operator and as many as three intermodal truckers. In this context, to be effective as an intermodal marketer requires a thorough knowledge of the operations and economics of the railroads, intermodal and over-the-road truckers, and equipment providers as well as a corollary depth in understanding of the supply-chain requirements of the shippers to whom this service is sold.

self-supporting third-party equipment provider it acts as a vehicle to ensure that there will be an investment stream that flows directly to intermodal equipment. This role is all the more important as railroads continue to come under intense price pressure from motor carrier competition, which does not have to bear the full costs of the infrastructure it uses. TTX generates a margin from its activities that can be directed to a specific purpose – providing an efficient and growing national intermodal car fleet. As I will discuss below, it is unlikely that the individual freight railroads, absent TTX, would be willing, or financially able, to devote the capital required to expanding the intermodal flatcar fleet at the rate that will be required to facilitate the growth anticipated for intermodal in the coming decades. Limited railroad capital dollars will be consumed by the needs of bigger-ticket projects, such as the expansion of mainline route and intermodal terminal capacity, which are also essential ingredients of sustainable intermodal growth.

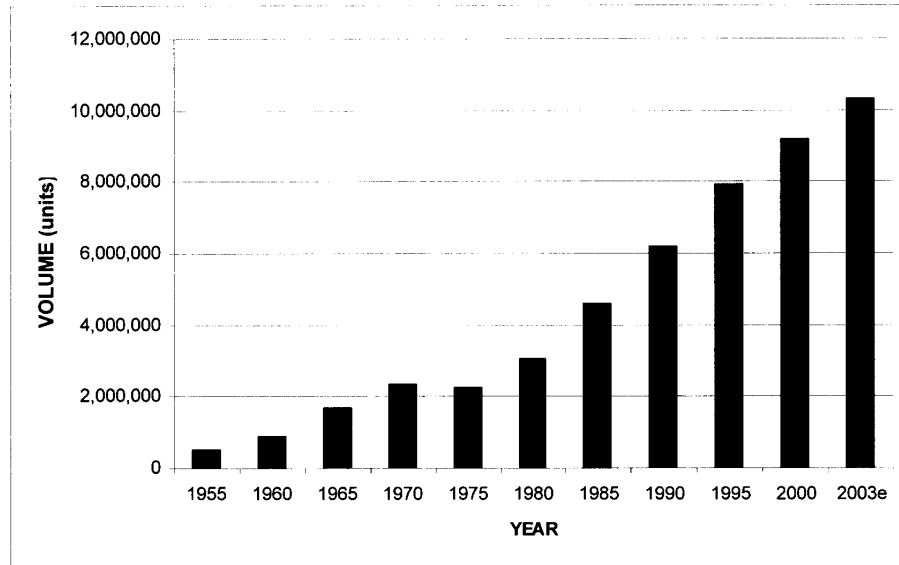
II. TTX IS A VITAL ENGINE OF EFFICIENT INTERMODAL GROWTH.

A. TTX's Has Played a Critical Role in the First Half-Century of Intermodal Transportation

Intermodal transportation in the United States had its beginnings in 1936 when the Chicago Great Western Railroad moved several hundred motor carrier trailers on flatcars that it owned and modified for this purpose.³ Over the next two decades, intermodal grew at a modest rate: 500,000 intermodal loads were handled by all U.S. railroads in 1956. From 1956 to 1976, the business grew more than four-fold, to approximately 2.4 million loads, and multiplied four-and-a-half times again by 2003, when it is anticipated that the industry will move approximately 10.8 million containers and trailers. (Please refer to Chart 1.) As one illustration of the dramatic intermodal growth in the past two decades, consider that in 1984 American railroads offered shippers service on one double-stack train per week between the West Coast and two major inland markets. Today, over 34 stack trains originate on the West Coast per day (or approximately 241 trains per week), and they serve virtually every major inland market. Sixty percent of the containers discharged at the West Coast ports move inland in rail intermodal service.

³ David J. DeBoer, "Piggyback and Containers: A History of Rail Intermodal on America's Steel Highway" (Golden West Books 2002).

Chart 1: Growth of Intermodal Volume 1955 to 2003



While several factors have contributed to rail intermodal's stellar growth since 1956, such aggressive growth did not begin to occur until the development of a national intermodal flatcar pool and TTX's inception (as Trailer Train Company). The keys to unlocking intermodal's growth potential have been and remain competitive rates, equipment with competitive carrying capacity, and dependable service. Shippers want to increase their use of intermodal for a number of reasons, but primary among them is their need to reduce supply chain costs while maintaining a high quality of service. TTX played a fundamental role in allowing railroads to provide these benefits through efficient flatcar utilization, expansion and adaptation of the fleet to meet growing and shifting equipment requirements, and innovation to improve efficiency and serve customers more effectively. Having the car supply to support aggressive modal conversion and intermodal growth is critical to the efforts of intermodal marketers. It is a testimonial to TTX that in over two and a half decades of marketing intermodal service, I cannot recall losing a major customer because of inadequate intermodal car supply.

B. Intermodal is More Important to the Railroads Now than It Ever Was

Intermodal transportation has become more important than ever to the future health of the North American rail industry. While deregulation contributed to the economic revitalization of the rail industry and stabilized the railroads' once-declining market share, the industry has been

able to demonstrate long term, secular⁴ growth in three principal areas – coal, automotive traffic and intermodal – and, of the three, only intermodal demonstrates a growth rate consistently greater than GDP growth levels. Between 1980 and 2000, the compound annual growth rate of rail intermodal volume was 5.9 percent, almost three times the growth rate of other rail-hauled commodities. While the bulk and carload sides of the rail business have grown at about Industrial Production Index growth rates, the intermodal business has grown much more rapidly – typically at twice the rate of U.S. GDP growth. Furthermore, the secular nature of intermodal growth, as compared to the more cyclical nature of carload and most bulk businesses, makes it even more important to the railroads’ future.

In the past year, intermodal traffic has been on its strongest growth path in over two decades. The nine highest volume weeks in intermodal history all took place over a ten week period in the fall of 2003. It is now forecast that at some point in 2004, intermodal will surpass coal as the single largest source of Class 1 rail revenue.⁵ While coal and automotive traffic is not distributed evenly across rail carriers, all Class 1 railroads participate, relatively equally, in the expansive and continual growth of intermodal traffic. The intermodal line of business is today, and will be in the future, the growth engine for the railroad industry.

C. TTX Has a Critical Role to Play in Achieving Future Intermodal Efficiency and Growth

TTX will be even more indispensable than it has in the past in allowing the railroads to achieve and accommodate efficient intermodal growth.

1. The TTX Flatcar Pool Plays a Vital Role in Maximizing Intermodal Efficiency through Efficient Equipment Utilization

Railroads are under intense pressures to achieve operating efficiencies and maximize the utilization of their assets. These pressures are particularly acute in the intermodal environment, where competition from truckers is pervasive and railroad margins are accordingly thin.

⁴ “Secular” growth refers to rail traffic growth at a pace that exceeds the rate of growth of the underlying commodity in the economy as a whole.

⁵ This product is based on forecasts as of late 2002 and the assumption of 5% annual growth for intermodal and 1.5% for coal. In fact, the intermodal growth rate will probably be higher in 2003, perhaps 6%.

Rail intermodal must compete in an environment where shippers insist that intermodal rates be less than truck to offset service and trailer/container capacity differentials.⁶ Shippers are also under continuing pressure to reduce their transportation costs. Trucks “set the market” with respect to the price shippers are willing to pay for intermodal service and do so with a cost structure that bears few of the costs associated with the Nation’s highway infrastructure. The competitive environment fostered by both rail and motor carrier deregulation in the 1980s has also led shippers to expect improvements in service accompanied by reductions in price, year-over-year. Due to intense price competition between railroads and trucks for intermodal traffic, rail intermodal is a lower-margin business for the railroads. As a result, not surprisingly, railroads find it difficult to recover the costs of capital on their private investment used in competition with motor carriers, and they must derive every possible efficiency from their privately-financed network operations to provide a high quality of service at a price below that of truck.⁷

Especially in the intermodal environment, TTX’s flatcar pool is intrinsic to the efficient functioning of the rail intermodal network in North America and is fundamental to the railroads’ ability to offer a service that is geographically and economically competitive with that of motor carriers. Railroading – and car supply in particular – is a network business in which each railroad’s service is dependent on efficient interactions with other carriers, including carriers that are its competitors. In this setting, it is vital that railroads find effective ways to cooperate with one another so that they can provide efficient and effective services. From years of direct experience, I can attest that shippers want to tender loads to carriers that can move them in any direction, at any time, without respect to the boundaries of a particular carrier. TTX’s continent-wide intermodal car pool is essential to this.

In the early years of intermodal, reliance on individual railroad ownership of intermodal flatcars led to a number of inefficiencies and limitations. Different roads adopted differing approaches to loading and unloading intermodal flatcars and adopted varying intermodal car types. Without standardization, loads were unable to flow freely from one point to another,

⁶ This has been true at each period of intermodal’s development. At the first stage of intermodal development, the railroads focused on winning back freight lost from boxcars to the faster, larger and more efficient trucks fostered by completion of the Interstate highway system. In its next stage of growth, which came through the conversion of international freight from all-water routes, rail intermodal had to compete with the extremely low cost-base of all-water steamship routes if they were to divert this traffic to rail.

⁷ Brown & Hatch, p 14.

making it difficult for shippers, who needed to ship nationally, to utilize intermodal on a widespread basis

Development of a national pool encouraged an appropriate and necessary level of agreement on certain standards that enabled shippers to use intermodal on an any-road,-any-destination basis. Today the TTX pool is at the center of the efficient functioning of the intermodal network because it minimizes the switching of cars at terminals, it minimizes empty car miles, it encourages the use of intermodal cars on a run-through basis between connecting carriers, and it actively works to break down parochial silos which capture cars to meet local needs at the expense of efficient national fleet utilization.

The TTX pool also plays an important role in meeting the seasonal demands of intermodal shippers. By its nature, the rail intermodal business is subject to greater differentials in demand between seasonal peaks and valleys than other freight modes, by a significant factor. In large part, the peak-valley nature of intermodal reflects the supply-demand characteristics of the merchandise traffic moving through the global supply chains that are served jointly by ocean carriers and railroads. Additionally, domestic producers of wine, food and agricultural products with seasonal demand characteristics are also heavy users of intermodal service. Efficiently handling peak period demand for such customers is very important. The TTX pool plays a vital and objective function in allowing the free flow of equipment – with TTX able to step in to rebalance the system as necessary. This role is not readily replaced by its owner railroads, either individually or in concert.

In my experience, the TTX pool plays a particularly critical role during peak periods when, absent TTX's participation, individual railroads would be more likely to retain their flatcars on-line out of concern for meeting the requirements of their own originating shippers, and be less likely to utilize them in run-through interchange service with connecting roads. Additionally, individual railroads may be inclined to accumulate cars on-line in anticipation of shifts in demand. In both cases, this has the effect of making less efficient use of intermodal flatcars. It could also have the effect of forcing interline traffic onto local road networks in order to connect between railroads at junction points, resulting in longer transit times, less predictable service, and greater highway congestion. With the TTX pool – and through TTX's involvement in car distribution as a backstop as necessary – this potential issue has been largely avoided in recent years.

Intermodal marketers closely track the availability of containers and trailers in order to anticipate, and meet, their customers' needs. During peak periods of intermodal demand,

equipment can be very difficult to secure, particularly in certain markets such as the Los Angeles Basin and Northern California. The TTX pool has done a remarkable job of keeping the intermodal car supply fluid through the many peaks and valleys of this business. Occasionally this involves directing a railroad to move cars to a competitor. Given the intensely competitive nature of the railroad business, it is all but impossible to envision how this would be accomplished by individual railroads absent the existence of TTX.

Another major advantage of TTX's flatcar pool is its contribution to the efficient utilization of railroads' network capacity. A by-product of the rationalization of the rail network since deregulation has been the concentration of volume on a smaller number of carriers and routes. This is even more pronounced for intermodal traffic which, due to its higher service requirements, is often concentrated on a more limited sub-set of a carrier's line segments so as not to conflict with slower bulk traffic or to take advantage of shorter, faster, and more direct lines. By one estimate, intermodal growth has fueled line segment growth in ton-miles by as much as eight percent per year. Sustained growth over these segments of six to seven percent per year from intermodal traffic is expected. Such growth requires enormous capital investment just to keep up with anticipated demand. To grow efficiently, railroads must make optimal use of route capacity by maximizing train length and car utilization. TTX's pool is critical to such efforts, minimizing the inefficient movement of empty cars. In addition, the variety of car types offered by TTX enables the carriers to efficiently mix containers and trailers, of varying sizes, in a single train without sacrificing slot (or hitch)⁸ utilization.

Optimal line utilization is also directly related to efficient movement on and off intermodal terminals and through railroad junctions. The TTX pool facilitates the steel-wheel interchange of intermodal traffic through railroad gateways. Since one-half of a railroad's intermodal business typically is interchanged with other carriers, the absence of the TTX pool would lead to significant declines in efficiency as railroads backed away from steel-wheel interchanges and run-through intermodal trains in order to retain their own cars on their own lines. The TTX pool also minimizes the need for switching at on-dock and other intermodal terminals by eliminating the need to sort cars by railroad ownership, which would inevitably occur if railroads relied on their own separate fleets of flatcars.

⁸ A "slot" or a "hitch" is a shibboleth for the space on a flatcar for a container or a trailer.

2. TTX Plays a Critical Role in Assuring a Stream of Capital to Support Ongoing Investment in Intermodal Equipment

TTX's formation led to much more rapid investment of a national fleet of intermodal flatcars than would have occurred had such equipment investments been left to the individual railroads. TTX's role in financing extensive investments in intermodal flatcar capacity will continue to be vital.

My experience has been that when railroads do devote capital resources to intermodal, it is only after significant traffic has already developed and existing facilities or equipment are inadequate to continue to handle any further growth. As a result, it is unlikely that the railroads would have invested at the same level, or with the same consistent commitment to fleet expansion, as TTX has. TTX achieves these benefits in several ways. First, because TTX makes more efficient use of intermodal cars than could an individual railroad, it can justify more investment in equipment than any one carrier (or group of individual carriers). Second, TTX, by its nature, is in a position to choose to make investments that benefit the intermodal business community as a whole as opposed to the necessarily more limited focus of particular carriers. Third, at TTX, the intermodal car investment does not compete with other big ticket capital projects which may have higher rates of return, as is the case at individual railroads.

The U.S. freight railroads are both capital-intensive and capital-constrained. Railroads are among the most capital-intensive businesses in the United States. From 1997 to 2001, for example, freight railroad capital expenditures amounted to 18.8 percent of revenue, much higher than the average for all U.S. manufacturing industries – 3.8 percent – and over three-and-a-half times as great as the next most capital-intensive industry, electronics manufacturing (at 5.5 percent).⁹ Since deregulation, the Class 1 railroads have invested more than \$102 billion in capital improvement programs.¹⁰

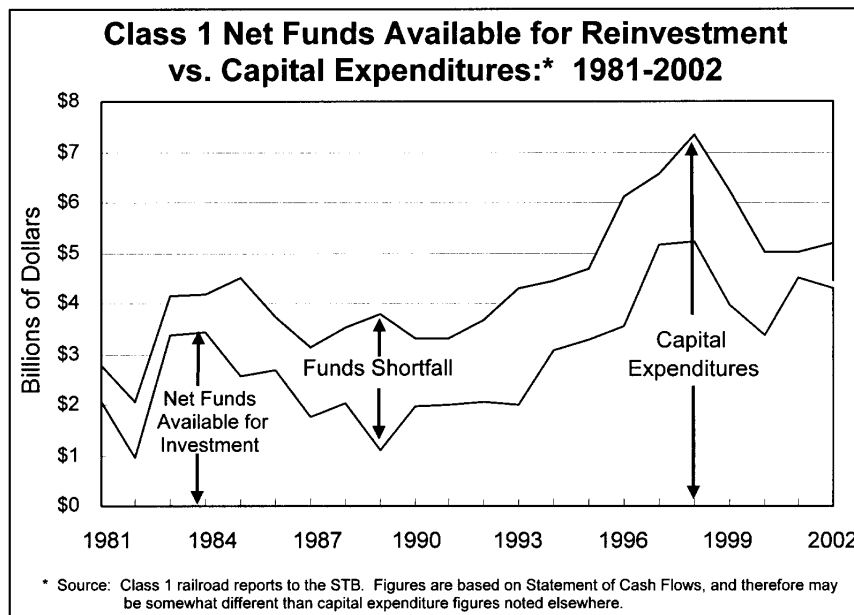
However, in spite of major strides since deregulation, the rail industry continues to suffer from a “capital shortfall” – a shortage of available capital versus the capital required to sustain the industry. This is primarily because railroads still do not earn their cost of capital. In 2001, for example, the rail industry's average cost of capital was 10.2 percent, as compared to a return

⁹ American Association of Railroads, “The Importance of Adequate Railroad Investment” (July 2003), p. 2.

¹⁰ *Id.*, p. 1.

on investment of approximately 6.9 percent.¹¹ Because their earnings are limited by the fiercely competitive transportation environment, the freight railroads cannot generate sufficient capital for reinvestment entirely from earnings and simultaneously maintain the free cash flow expected by the financial community. In fact, railroad profitability ranks in the bottom 25 percent of all U.S. industries. The AAR estimates that between 1981 and 2002, the railroads' "capital funding shortfall" equaled \$33 billion, or 34 percent of total capital investment. (Please refer to Chart 2.) As a result, railroads must attract outside funding sources to sustain the capital investment programs needed to ensure reinvestment, capacity expansion, and growth.

Chart 2: Railroad Capital Funding Shortfall 1981-2002



The investments required to accommodate anticipated intermodal growth will be extraordinary. I am sure that the Board is well acquainted with the now often cited research done for the U.S. Department of Transportation's Federal Highway Administration and others that forecasts that the amount of international trade done with the United States will double by 2020 and domestic and international freight tonnage will increase by 67 percent.¹² This will carry with it huge capital needs. In research that I conducted last year underlying the monograph I prepared

¹¹ As determined by the Surface Transportation Board.

¹² U.S. Department of Transportation Freight Analysis Framework Project

with Anthony Hatch (“Rail Intermodal on the Fast Track”), I determined that the railroads spent approximately \$34 billion since 1981 on intermodal equipment and infrastructure projects.¹³ Such projects included new and expanded intermodal terminals, new on-dock intermodal facilities to support growing international trade, raising clearances along certain line segments to accommodate the introduction of double-stack cars, adding track capacity and state-of-the-art traffic control systems to optimize route capacity, and modernizing the locomotive fleet.

The latent capacity that intermodal was able to exploit in the last decades of the 20th century has now been largely consumed. Several recent studies have demonstrated what is readily apparent to those involved on a day-to-day basis in providing or purchasing freight transportation: the North American intermodal transportation system is already functioning in many areas at, or near, its efficient capacity.¹⁴ In order to meet the anticipated growth in demand for freight capacity there must be significant investment in additional freight infrastructure and capacity.

The needed capacity will be expensive. Intermodal terminals, for example, which were once built by converting existing but underutilized (or idle) rail classification yards will in the future require large “green field” sites, which entail costly and time consuming land acquisition and environmental abatement programs. A decade ago, a major terminal could be developed for less than \$50 million; the new intermodal ramps recently opened in the Midwest each cost well over twice that amount.¹⁵ Moreover, the most capacity constrained part of the rail intermodal network is that which is most expensive to expand – the intermodal terminals and routes through key urban gateways.¹⁶

Unfortunately, although intermodal rates of return on invested capital are improving, they are typically among the lowest of the various rail commodity groups. Within railroads – as in any business – capital is allocated to those projects that have the highest returns on investment.

¹³ This includes TTX’s investment of over \$4 billion in intermodal cars during this period

¹⁴ See, most notably, “Transportation-Invest in America, The Freight-Rail Bottom Line Report,” prepared for the American Association of State Highway and Transportation Officials in 2002, and “Trade and Transportation, A Study of North American Port and Intermodal Systems,” prepared for the National Chamber Foundation of the U.S. Chamber of Commerce in 2002.

¹⁵ The new BNSF intermodal facility recently opened near Joliet, Illinois reportedly cost over \$110 million, and the Union Pacific’s New Rochelle, Illinois, facility cost approximately \$181 million.

¹⁶ For example, the cost of creating new, more efficient rail routes through Chicago, largely to serve intermodal traffic, exceed \$1.4 billion. The freight railroads’ share is projected at \$200 million.

Competition for capital is intense, as there are more capital needs than available sources of funds. At some carriers, projects with less than a 20 percent return are not even considered. In my experience, many intermodal projects have been funded only because of the long-term view taken by the freight railroads' senior executives. Many key executives in the railroad industry believe that intermodal is the industry's future and that they must continue to position themselves to capture its potential. Nonetheless, they are severely constrained in their ability to do so by the economic dynamics discussed above.

In this environment, TTX's existence as a single-purpose entity that creates a dedicated flow of revenue and capital dedicated to one purpose – investment in intermodal (and other) flatcars – will continue to be one of TTX's most valuable and vital roles. TTX makes investment in intermodal car capacity possible outside the typical competitive allocation process for capital spending within its member roads. Because of its more efficient utilization of the equipment it invests in, the TTX pool also allows the railroads to transport more intermodal loads with a given level of investment in flatcars.

3. The TTX Flatcar Pool Facilitates Rapid Adaptation to Change in the Intermodal Shipping World and Innovation to Improve Flatcar Equipment to Better Meet Customers' Needs

TTX allowed the railroads effectively to adapt their shared fleet of intermodal flatcars in response to changing shipping patterns. TTX efficiently reacted to the evolving nature and mix of intermodal trailers and containers that shippers favor, adapting the national intermodal car fleet to three major changes in trailer and container carrying requirements in the past two decades – more quickly and efficiently, and on a national basis, than individual railroads could have done. TTX has also proven itself a major source of innovation in flatcar technology, and it has played an equally important role in implementing innovations and improvements across the railroad's fleet of cars. These attributes will continue to be of great importance to the railroad industry in coming years.

a) TTX Facilitates Rapid Adaptation to Changing Market Conditions

In the early years of the development of the rail intermodal business, it seemed that significant changes in intermodal equipment occurred only once a decade, or even less frequently. Today, a number of factors have combined to make the pace of equipment change much more rapid and, therefore, more challenging for railroads and intermodal marketers. TTX

has played a critical role in addressing this challenge – both through its ability to efficiently modify and repurpose existing equipment to meet new requirements, and through its ability to absorb the financial risks associated with such changes.¹⁷

Growing intermodal market share requires successfully meeting the needs of a broad range of shippers in a wide variety of markets with varying trailer and container requirements. International shippers need double-stack cars that can accommodate 20-ft, 40-ft and 45-ft ocean containers. Domestic shippers, such as IMCs, that utilize rail-provided boxes need flatcars that can readily accommodate both 48-ft and 53-ft containers. Domestic shippers also continue to load freight in rail-provided 48-ft and 53-ft trailers, which have yet another optimal flatcar requirement (though these trailers may also be loaded in specially-equipped well cars). Other domestic shippers, such as motor carriers tendering their own boxes, need flatcars that can accommodate 28-ft and 53-ft trailers. Some shippers, such as small package shippers, may want to tender loads in all of the above lengths.

The dynamic nature of the marketplace is such that the “mixture” of these boxes changes, often rapidly, as one segment or another sees demand increase or decline and equipment types evolve in response to shippers’ quest for greater efficiency. TTX and the railroads are faced with a difficult three-cornered balancing act requiring them to respond to customer needs and improve the productivity of their intermodal assets, while recovering the investment made in a car fleet that most often outlives the economic life-cycle of the trailers or containers they must carry. Fundamentally, railroads must respond to such changes on a time-line set by their motor carrier competitors.

Identifying emerging trends in the business, capturing new market opportunities, and infusing new equipment into the network in advance of demand is an important part of the value proposition that TTX brings to its railroad participants. As part of this process, TTX is actively engaged in industry-oriented market research aimed at identifying trends and assessing the intended carrying capacity needed to meet shippers’ shifting needs.

With its market-focused management team, TTX invests in fleet capacity prospectively to facilitate growth – even when the business has reached a plateau – making it ready to handle the

¹⁷ Motor carriers can much more easily adapt to changes in the size or nature of the “box” they utilize to haul freight than can rail intermodal service providers. Railroads not only have more invested, per unit, in the box itself, but they must also be mindful that a new box size, or type, most often dictates major changes to (or may even make obsolete) the intermodal flatcars currently utilized to carry them.

next upturn in demand. This is critical as intermodal has grown in a stair-step fashion with “risers and plateaus.” Having capacity on-hand has been essential in allowing the railroads to handle the next upward step in volume and market share when it came. In fact, the industry is currently experiencing another such dramatic upturn, with increases in both domestic and international volumes accompanied by few, if any, car shortages of any duration – largely because TTX had the foresight to order 15,500 platforms (double-stack car “slots”) for delivery this year.

TTX’s role in adapting the fleet to improve efficiency and meet customer requirements is well illustrated by two examples, both relating to containerization and the shift from trailers to containers.¹⁸ First, TTX played a key role in the diffusion of double-stack car technology into the national car fleet, facilitating the stellar growth of international traffic in the 1980s and 1990s. International containers were first handled in the U.S. intermodal network in the 1970s, but it was not until the 1980s, with the advent of double-stack car technology designed to provide the most efficient, high-quality ride for containers, that the volumes of containerized freight (first international; then domestic) dramatically increased. While TTX did not itself develop the double-stack car, it was responsible for its rapid introduction into the national intermodal car fleet. Its financial strength combined with its ability to re-purpose the flatcars that the new double-stack cars would make obsolete, enabled TTX to pursue an aggressive double-stack car acquisition program.

A second example of TTX adapting its fleet involves its critical role in facilitating the development of domestic containerization programs in the 1990s, and the subsequent introduction of the 53-ft domestic container, which is at the core of the industry’s ability to convert high-value freight from highway to rail. A unique strength of TTX is its ability to facilitate the entry of railroads and intermodal marketers into new business segments incrementally without heavy up-front capital investments. I witnessed this directly as I participated in the development and marketing of the railroads’ domestic container programs in the early 1990s. Prior to the 1990s, while international volumes were soaring, domestic intermodal was growing much more slowly. While some domestic movement did occur in

¹⁸ The single most important event in the recent history of intermodal has been the advent of containerization – both domestic and international. While the business was born around the movement of trailers on flatcars, by 1980 44% of intermodal volume was handled in containers and by 2000 this number had grown to 68%. Containerization brought the lower costs and high ride quality essential for wide spread intermodal growth.

containers, they were limited in geographic reach and in the quantity of equipment available. What certain railroads, intermodal marketers, and equipment leasing companies felt was needed was a nationwide program offering domestic containers that could leverage the advantages that double-stack provided to international shippers. The development of truck-competitive services utilizing 48-ft (and later, 53-ft) domestic containers had a dramatic impact on the ability of intermodal marketers to convert domestic freight from truck to rail. None of this would have been possible without TTX's ability to rapidly absorb 48-ft and 53-ft containers into their network. Initially, such containers were limited to being top-loaded on 40-ft well cars. But, as soon as it became apparent that this would be an important future direction, TTX moved rapidly to adapt its fleet to provide 48-ft wells.

More recently, TTX recognized the important trends and changes in international shipping patterns and documented the need for, and advocated the conversion to, 53-ft domestic equipment to replace a largely 45-ft and 48-ft fleet.¹⁹ TTX is adapting rapidly once again to changing market requirements, adding 53-foot platforms while efficiently converting its 48-foot wells to handle the still-growing volume of international shipments in 40-foot boxes. I should add that this was accomplished while reducing the effective cost to shippers, on a per-unit basis, of intermodal transportation. Individual railroads owning and operating their own car fleets simply could not have adapted to containerization nor converted from 48-ft to 53-ft boxes as rapidly and efficiently as TTX did.

b) TTX Plays an Important Role in Innovation

TTX's role in innovation and implementation of improved flatcar technology is equally important. TTX also enables the railroads to develop and test new services and respond to competition rapidly without having to make long-term capital commitments to new equipment. Since its inception, TTX has been very active and adept in modifying, retrofitting, and adapting the cars in its fleet to meet changing market conditions. In more recent years, it has applied this

¹⁹ The major shift toward 53-ft containers and trailers stems in part from the growing trend among shippers to transload and reconfigure their shipments near the point of arrival in the United States, which has led to increases in domestic intermodal shipments. Add to this a constant drive to reduce logistics costs on the part of shippers of all kinds; the changing dimensional characteristics of their merchandise freight (from low cube with high density to high cube with lower density¹⁹) and the competing motor carrier's agile and repeated conversions of their commercial trailer fleet from 40-ft to 45-ft, then from 45-ft to 48-ft, and finally from 48-ft to 53-ft and 57-ft lengths and from 96" widths to plate-sided trailers that are 102" wide.

skill set to supporting railroad efforts to test and develop new markets without having to make major up-front investments in new equipment. For example, in the early stages of the development of the Iron Highway program, the parties involved determined that the viability of the concept (*i.e.*, dedicated equipment rapidly cycling in short distance markets focused on capturing roll-on/roll-off truck traffic) should be market-tested before additional equipment investment was undertaken. TTX modified and provided the flatcars that enabled such testing. As a result, important conclusions were drawn that enabled the developers to bring to market a less complex and less expensive equipment design.²⁰

When efficient innovation takes place, TTX is in a better position to facilitate its widespread application by introducing it to the national fleet – as it did with the double-stack car. In my experience, it is much more difficult for an individual railroad to accomplish both innovation and diffusion of new car types. In fact, in the early days of intermodal (before TTX) the fact that one railroad adopted a particular intermodal car and trailer type almost insured that a competing road would not adopt it; often resulting in intermodal service that was limited not only to one railroad but to only one region of the country. Today, through TTX, the innovations of a particular railroad or car builder have a conduit to the intermodal marketplace as a whole.

While the variety of equipment types and commercial directions pursued by railroads during the early years of intermodal development was sometimes healthy and innovative, achieving the scale and scope to offer a successful national intermodal program to customers requires that a significant degree of standardization be achieved. Otherwise, rail intermodal could not become a serious competitor to motor carriers for the traffic of Fortune 500 companies and global shippers. TTX has played an important role in the process of standardizing the basics of the intermodal flatcar and its hardware. It has facilitated the development of equipment specifications by consensus among carriers; adopting an approach to car-type diversification that balances shipper requirements with railroad operating needs – and then implementing those improvements across the existing car fleet.

²⁰ An older, but no less compelling example of TTX's more efficient use of equipment is its role in facilitating the development of the Sprint Train concept in the 1980s by the Burlington Northern, Santa Fe, and Illinois Central, which demonstrated the efficacy of intermodal service for high value, high-service customers in mid-distance, and long-distance, markets. Utilizing dedicated train sets of existing TTX equipment, these trains shuttled between terminals in rapid-turn-around service and proved that intermodal could be truck competitive in reliability, ride quality, as well as cost. The capture of significant business from parcel, LTL and highway carriers came as a direct result of these service innovations.

Future intermodal growth will depend in part on accessing new markets, some of which will require new car technologies. Intermodal service today is believed to be competitive with that of motor carriers at lengths of haul in excess of 750 miles. In practice, most intermodal shipments occur in corridors of 1,250 miles in length or greater. While these traditional intermodal markets continue to have potential for significant growth (witness recent volumes), long-term and more rapid intermodal growth will require conversion of truck traffic at shorter lengths of haul. (Most truck traffic moves between points 500 miles distant, or less).²¹ To do so will require changing the economics and operating characteristics of the intermodal products that the railroads offer. TTX's history and experience with the development and diffusion of innovation in car technologies positions it to play a pivotal role.

TTX is well-positioned to provide the testing and development of intermodal equipment appropriate to allow the railroads to address new business opportunities – whether short-haul or long. Since it captures the residual value of the assets it operates, it can direct such resources into research and development of value to its railroad owners and to the intermodal community and because it has the confidence of railroads, intermodal marketers and shippers, it can conduct valuable independent research into these new opportunities.

TTX also plays an important role in developing new markets by assisting in keeping the costs of entry low. For example, it can repurpose existing cars for use in markets different from those for which they were designed; when new equipment is required it can spread the risk of rapid adoption, and cost of obsolescence, over the entire national fleet; and it can reduce the costs of developing and maintaining new types of equipment (or technological improvement to old equipment) because of its economies of scale and base of experience and expertise.

* * *

Since deregulation there has been a renaissance of the freight railroads in the United States. An industry that many believed in the 1960s was moribund has rebounded and become profitable, vital and an essential part of our national transportation picture. Yet, the capital constraints that each railroad faces limit its ability to invest in intermodal rather than in other higher-yielding commodity areas. There is no question in my mind that if the Board were not to reauthorize TTX's pooling authority that the size of the intermodal car fleet in North America

²¹ Recent studies focused on the potential market for intermodal service in corridors between 250 and 1,000 miles in length estimate the total market as \$90 billion – almost three times the current total of Class 1 railroad revenues. Gallagher, John, "Cracking the 750 Mile Zone," *Traffic World* (Aug. 18, 2003), p. 23.

would decline. Like a series of tumbling dominos one negative effect after another would ensue. There would be a seriously attenuated ability on the part of intermodal carriers to meet peak period demand especially at key ports and for international customers and for domestic customers in agricultural regions. This would lead to railroads hedging car supplies by keeping cars on line and more cross-town drayage would ensue via congested urban highways. For example, over 1.2 million cross-town drays per year occur today in Chicago²² and 42 percent of all intermodal loads (or 4.6 million units annually) move to or through this critical rail interchange point²³. Imagine the impact on the Chicago region's already congested highways if the number of rubber tired cross towns were to increase significantly. As service declined, rather than attracting traffic off the highways, intermodal freight traffic would return to the highways in highly congested areas such as in the L.A. Basin and in the New York/New Jersey metroplex, adding to gridlock. Less innovation would occur as railroads would face higher costs associated with entering new markets or experimenting with new equipment technologies.

III. TTX'S ROLE IN FACILITATING INTERMODAL GROWTH GENERATES BENEFITS FOR ALL PARTICIPANTS IN INTERMODAL TRANSPORTATION AS WELL AS THE PUBLIC AT LARGE

The benefits that TTX's flatcar pool generates flow to all users of rail intermodal service as well as to the public at large.

As the discussion above indicates, all users of rail intermodal services benefit directly from TTX's role in providing an efficient fleet of intermodal flatcars and fostering the efficient utilization of those vital assets. Intermodal Marketing Companies, which are on the front line assembling and delivering a door-to-door intermodal product on the railroads' behalf to their mutual customers, have first-hand knowledge that the benefits from a national flatcar pool are not only real but critical to meeting the shipper's needs. They know from long history that without TTX, an inefficient fragmentation of equipment ownership and management would occur, undermining their ability to provide a truck-like intermodal product for their customers. Ocean carriers depend on TTX and provide a seamless double-stack fleet capable of transporting the

²² Transport Research Board, Special Report 271, "Freight Capacity for the 21st Century," 2002, quoted in Foundation for Intermodal Research and Education, "Rail Short Haul Intermodal Corridor Case Studies: Industry Context and Issues" (March 2003), p. 12.

²³ Mongelluzo, Bill, "Clear Track Through Chicago," *The Journal of Commerce* (Sept. 15-21, 2003), p. 15.

huge volumes of cargo disgorged by vessels arriving at U.S. ports.²⁴ Motor carriers using railroad intermodal service also benefit from the TTX pool. The freight they convert to intermodal is particularly service sensitive and could not tolerate delays associated with equipment shortages.²⁵ TTX also has a long history of working with the railroads to provide the appropriate flatcar types to meet the unique requirements of LTL, parcel and small package shippers, which have very high service requirements and often have atypical equipment needs – such as 28-ft “pup” or “drop frame” trailers. TTX has responded to these needs and successfully adapted its car fleet to include equipment that meets these customers’ requirements.²⁶

But TTX’s benefits extend far beyond the intermodal community. Because of the importance of rail intermodal to solving the transportation infrastructure problems that the Nation faces, the benefits created by TTX accrue to the public at large. Our economy relies on productivity increases to grow. Productivity gains will become much more difficult to achieve if transportation and logistics costs escalate rather than continue to decline. The inefficiency tax on our economy of a deteriorating transportation network will be enormous. Unless we address our transportation infrastructure challenges head-on, we will find ourselves seriously disadvantaged competitors in a global economy. Increased use of rail intermodal offers our best alternative to address these challenges in an efficient, socially and environmentally acceptable fashion, and TTX is essential to providing and growing rail intermodal service in the United States.

The foundation of an efficiently growing economy is an efficient transportation system. The U.S. freight transportation system is a complex, interdependent network. Such networks decline in service quality, efficiency and throughput as theoretical maximums are approached,

²⁴ Every day over 17,000 containers laden with imported cargo enter the U.S., and sixty per cent of those containers that are discharged on the West Coast move inland by rail. A single 5,000 TEU vessel arriving at a U.S. port will typically generate seven double-stack intermodal trains. Savi Technology press release, *Business Wire* (Apr. 29, 2002).

²⁵ Two of the nation’s largest motor carriers are now among the railroads’ largest intermodal customers, and increasing numbers of mid-sized motor carriers are beginning to utilize intermodal service as the railroads and TTX have facilitated the movement of their privately owned trailers on high-service intermodal trains.

²⁶ Recently, for example, United Parcel Service challenged the railroads to assist them in reducing transcontinental transit times by one full day. Successfully meeting this challenge would enable UPS to expand its use of rail intermodal service. In order to dependably cut the requisite hours out of the existing train schedules required not only increasing the train velocities between end points for UPS traffic, but also required well-maintained intermodal flatcars that could sustain high-speed operations without undue maintenance requirements. Needless to say, both the railroads and TTX effectively met this challenge.

and the forecasted increase in volume will only exacerbate the problems of congestion and delay that we are beginning to experience today. In fact, we will face a crisis of mobility that will force shippers and carriers to bear higher operating costs and declining productivity. Unfortunately, the combination of factors that brought about decades of productivity improvements to surface transportation in the past have played themselves out. Incremental improvements in the future will come with a huge appetite for capital investments to remove the bottlenecks that have come from decades of under-spending on transportation infrastructure. However, the current levels of under-investment in the face of growing demand threaten the efficiency of our transportation network.

Today, the United States has the most efficient logistics system in the world. Logistics costs in the U.S., as a percentage of GDP, declined to 9.2 percent in 2001, significantly lower than in any other developed nation. Logistics costs are highly sensitive to transportation costs. If our logistics costs, driven by steadily rising transportation costs in the future, became higher than those of the developed nations with which we compete, the impact on our economy and our ability to compete in the global marketplace would be severe. Rather than enjoying the gains and advantages from having the world's most efficient logistics system, we would find ourselves disadvantaged through our heavy reliance on what will be seriously congested and gridlocked roadways.

In the near term, the resultant increased costs for carriers, shippers and the public will represent an "inefficiency tax" on the economy. For the long-term, the situation could become much more threatening as declining productivity could seriously constrain national economic growth given that there is a direct relationship among productivity improvements, transportation infrastructure investment, and efficient GDP growth. According to one study, "[t]he American economy can grow and deliver improved living standards through one of two means, more workers or more productivity. With an aging population and net birth rates in decline, the nation is heavily dependent on productivity growth to achieve its economic goals."²⁷ Mature economies such as ours are typically disproportionately dependent on productivity growth; any significant economic event that negatively impacts productivity becomes a serious threat to economic growth and our standard of living.

²⁷ ICF Consulting and HLB Decision-Economics, "Economic Effects of Transportation: The Freight Story" (Jan. 2002), p. 1.

I believe that increased reliance on rail intermodal transportation will be essential as we strive to preserve the most efficient freight transportation and logistics system in the world in the face of an expected 65 percent increase in demand by 2020. We are already challenged by congested and decaying infrastructure and an over-dependence on highway-based carriage for freight transportation. If we continue on a course that favors the use of trucks and highways, we could find ourselves doubling the miles of lanes of urban interstate highways over the next two decades just to maintain the level of congestion where it is today. This is not socially or environmentally acceptable or economically advantageous. If we do not choose to invest in the mode with the greatest economic and public benefits we will face declining economic productivity and a constraint on the growth of our economy. Rail intermodal brings an innovative solution to a growing problem and represents a critical, efficient, and socially desirable alternative to a futile effort to build enough roadways.

The comparative advantages of investment in rail intermodal capacity over highway capacity are enormous, on the order of ten to one. The American Association of State Highway Transportation Officials, in its 2003 Bottom Line Report, observed that a \$3 trillion investment in additional highways would be needed if the forecasted growth in freight demand were carried by trucks alone, versus only \$300 billion if that growth were handled by rail. Furthermore, according to a study recently released by Cambridge Systematics, a small increase in the rail industry's share of intercity freight would have enormous direct economic benefits. If the rail share of forecasted 2020 freight volumes increased by one percent, it would shift 600 million tons of freight and 25 billion truck vehicle miles off of the nation's highways, saving shippers \$239 billion in freight charges and reducing highway construction costs by \$17 billion.²⁸

As our highways become more congested and our heavy dependence on motor carriers for moving freight becomes more problematic, railroad intermodal service could play an important role in facilitating the continued efficient growth of trade through U.S. ports. One important opportunity involves the development of port-inland terminal shuttle train services. The cargo moving through U.S. ports is expected to double by 2020 and the impact on certain ("load center") ports, where a high percentage of import/export volume is concentrated, will be even greater, challenging their ability to find and develop adequate land to facilitate such growth. The San Pedro Bay Ports (*i.e.*, the Ports of Long Beach and Los Angeles) are forecast to grow by a compound annual growth rate of 6.2 percent, resulting in a tripling of cargo flow-through by

²⁸ *The Journal of Commerce* (Mar. 31-Apr. 6, 2003), p. 10.

2020. Yet, the Port of Long Beach anticipates that it will have no land available for expansion after 2006. The Port of Los Angeles faces similar limitations. Other load center ports also must address the tension between growth and availability of water-side land.²⁹

One solution to these constraints could be to relocate the storage of containers while awaiting pick-up by consignees from ship-side to inland terminals, shuttling the containers from portside to an inland intermodal terminal, perhaps 100 miles to the port, by rail. Similar service, between the Port of New York and New Jersey and inland points such as Buffalo, NY, and Pittsburgh, PA, and between the Port of Savannah, GA, and Atlanta, GA (at lengths of haul of 447 miles and 319 miles, respectively), have also been studied.³⁰ The Foundation for Intermodal Research and Education study of short haul corridors observed that “there is a major opportunity for railroads to contribute to the alleviation of metropolitan area congestion, infrastructure wear and tear, and associated environmental problems if short haul intermodal services were available.”³¹ It concluded that, “[w]hile it is clear that short haul rail corridors present viable options to add [freight] capacity, the cost burdens of building these short haul corridors will require new public/private financing partnerships, as well as attention to new hybrid intermodal delivery service models.”³²

Growth in rail intermodal promises significant environmental benefits as well. On average, railroads are three times more fuel efficient than trucks, and a railroad locomotive produces one-third of the nitrogen oxides and particulates per ton of freight moved than a truck.³³ As our highways become increasingly congested and approach “gridlock,” the environmental, social, and economic costs increase dramatically. In its *2002 Urban Mobility Study*, the Texas Transportation Institute determined that the total cost of highway congestion in the U.S. is \$67.4 billion, or the equivalent of 3.6 billion hours of wasted additional travel time and 5.7 billion gallons of fuel needlessly consumed by cars and trucks delayed in traffic.³⁴ Railroads also require

²⁹ National Chamber Foundation, U.S. Chamber of Commerce, “Trade and Transportation, A Study of North American Port and Intermodal Systems” (March 2003), p. 8.

³⁰ Foundation for Intermodal Research and Education, “Rail Short Haul Intermodal Corridor Case Studies: Industry Context and Issues” (March 2003).

³¹ *Id.*, p. 11.

³² *Id.*, p. 42.

³³ *Id.*, p. 1.

³⁴ *Id.*, p. 2.

smaller “clearance tunnels”³⁵ than expanded highways in urban areas and in environmentally sensitive rural areas.

Building incremental rail capacity is much more cost-effective than building additional highway capacity. A recent FHWA study demonstrates that in 1996 dollars, the “weighted rural and urban combined costs per mile of constructing interstate highways. ... [is] \$20.6 million, including \$9.84 million per rural mile and \$44.13 million per urban mile.”³⁶ It can cost \$10 million, or more, to add a lane to a mile of urban highway,³⁷ compared with \$1 to \$2 million for a typical mile of railroad mainline. In addition, a single intermodal train can handle the same number of loads it would require 280 trucks moving via highway to handle, equivalent to more than 1,100 passenger cars.³⁸

Most importantly of all, the public’s pervasive resistance to highway construction on environmental, social, and safety grounds makes clear that we will not be able to “build our way” out of the highway congestion problem. Additional urban land is in many cases simply not available for additional highway construction, and building highways almost always requires lengthy and divisive battles with local communities that legitimately argue against additional highway construction because of its pervasive and negative impacts on air quality, noise levels, and the landscape. While rail projects must also be respectful of the concerns of local communities, seldom do they incur resistance of the same magnitude and intensity.

TTX, and rail intermodal, can be at the pivot point of a socially, economically and environmentally appropriate solution to the transportation infrastructure issues that we face. Increased use of intermodal is, in my view, essential to the preservation of our competitiveness in a global economy and to the continued efficient, safe, and environmentally-friendly growth of our national economy. TTX occupies a critical place in ensuring that the American public continues to attain all of the benefits of intermodal transportation.

³⁵ The three dimensional space required for rights-of-way

³⁶ Typical Interstate System Cost Per Mile,” FHWA – Federal Aid & Design Division, Document Route Symbol HNG-13 (Mar. 21, 1997).

³⁷ Patrick DeCouria-Souza, FHWA Office of Transportation Policy Studies, *Transport Topics*, (July 15, 2002), p. 9.

³⁸ Association of American Railroads, “Rail Intermodal Transportation” (July 2003), p. 2.

IV. THE PARTICIPATING RAILROADS' SELF-INTEREST WILL ENSURE THAT TTX IS AN ENGINE FOR EFFICIENCY AND EXPANSION

There is no downside risk associated with a continuation of TTX's flatcar pool. The pool poses no threat to competition, to TTX's suppliers or to potential competitors of TTX. TTX's participating railroads will only use TTX so long as it generates real public benefits.

The day-in, day-out reality for TTX's managers is that they must effectively market themselves to their railroad owners as well as to the intermodal business community. Someone not familiar with this business would easily imagine that since the railroads own TTX, they would simply and naturally favor it with their business. But in reality the opposite is true. Railroad intermodal managers are charged with continuously finding means to reduce operating costs, and car hire expense is an important focus. These managers do not behave as if they were compelled by their ownership of TTX to utilize its cars. To the contrary, they regularly seek, and at times utilize, alternative equipment sources and compel TTX to prove its competitive benefit in the face of such alternatives. The railroads, through word and deed, have made it clear to TTX that they will exercise their alternative options if TTX's solutions do not meet the dual tests of economic and operational efficiency. In practice, the only reason for them to utilize TTX rather than lease cars themselves is that TTX offers them real economic benefits.

I have witnessed at first hand the railroads' willingness to go elsewhere for their equipment needs if they perceive that any of these needs are not met. In my view, many of the individual railroads hold TTX to a higher standard in this regard than they do any other equipment supplier. As a consequence, TTX strives to be the most efficient and effective equipment provider to the railroads enabling them to meet the current needs of their shippers, while at the same time it seeks to create additional value through forward-looking market research to anticipate their future requirements.

Furthermore, TTX must respond to the interests of other industry participants as well, such as stack train operators and ocean carriers, who may choose to provide their own intermodal flatcars if TTX is not market responsive and if they feel their equipment needs are not being met during critical shipping periods.

The interests of TTX's participating railroads will ensure that TTX does not harm car builders or equipment lessors. TTX's interests are aligned with the interests of the rail industry in the continued existence of an efficient, healthy base of suppliers. In an industry which must face an extremely competitive marketplace, there is no space for inefficient or ineffective suppliers. I write from long personal experience when I observe that the rail intermodal

environment is one in which every business component is driven to find the lowest effective cost that will at the same time provide the service shippers require. The marketplace works very effectively in this context; the most efficient, effective suppliers come to the fore and are selected to provide their services. Neither the railroads nor TTX can afford to marginalize their suppliers in this context. To the contrary, the corporate culture of TTX embraces its suppliers just as it actively participates in the larger intermodal business community.

TTX is good corporate citizen and a strong presence in the intermodal community. Through its support and participation in important industry events, on behalf of the intermodal trade association, and by direct contacts with a variety of intermodal marketers and shippers, TTX encourages the dissemination of new ideas and supports the diffusions of innovation. It is a unique organization, beneficial both to its owners and to the public at large, and without which, it would be difficult to imagine a vital, growing rail intermodal business.

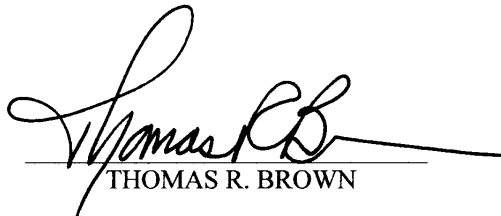
V. CONCLUSION

TTX is at the core of an efficient and competitive intermodal industry in North America, which is vital to address the Nation's transportation infrastructure challenges in an efficient, safe, and environmentally sound fashion. Based on my experience with carriers and shippers, I can assure the Board that TTX's role will be even more important in the future. It is thus critical that the Board reauthorize the pooling arrangement for the requested 15-year term. Reauthorization of TTX is clearly pro-competitive and in the best interests of the railroad, the intermodal business community, and the American public as a whole.

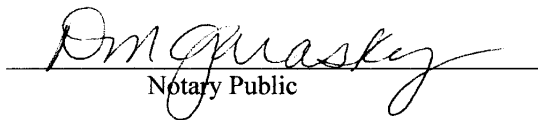
VERIFICATION

STATE OF California
COUNTY OF Contra Costa SS

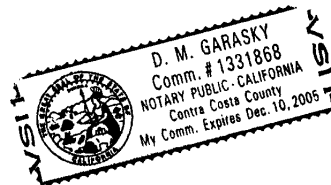
THOMAS R. BROWN, Principal, Strategic Directions, LLC, being duly sworn,
deposes and says that he has read the foregoing statement, knows the contents thereof and that
the same are true as stated.


THOMAS R. BROWN

Sworn to and subscribed before me
this 17th day of December, 2003.


Notary Public

My Commission expires 12/10/05.



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BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX Company – Application for Approval of Polling
Of Car Service With Respect to Flatcars

Finance Docket No. 27590 (Sub-No. 3)

**VERIFIED STATEMENT
OF
JOSEPH P. KALT**

I. INTRODUCTION

I.A Background

My name is Joseph P. Kalt. I am the Ford Foundation Professor of International Political Economy at the John F. Kennedy School of Government, Harvard University. I have served as the Kennedy School's Academic Dean for Research, Faculty Chair of the Committee on Research, Chair of the Economics and Quantitative Methods Program, Chair of Teaching Programs, and Chair of Ph.D. Programs. I also work as a senior economist with Lexecon, an FTI Company with offices in Cambridge, Massachusetts, and Chicago, Illinois. The views and opinions expressed in this report are solely my own.

I hold B.A., M.A., and Ph.D. degrees in economics and am a specialist in the economics of competition, antitrust, and regulation, with particular emphasis on the natural resource and transportation sectors. Throughout my professional career I have conducted research, published, taught, and testified extensively on the economics of competition, regulation, and antitrust analysis.

At Harvard, I served as an Instructor, Assistant Professor, and Associate Professor in the Department of Economics (1978-86) prior to joining the faculty of the Kennedy School of Government as a Professor with tenure in 1986. In the Department of Economics, I had primary responsibility for teaching the graduate and undergraduate courses in the economics of regulation and antitrust. At the Kennedy School, my teaching responsibilities have included the economics of regulation and antitrust, economics of public policy, and natural resource and environmental policy.

In the course of my academic and consulting experience, I have researched the economics of transportation, especially the changing regulatory and competitive landscape of the railroad industry. I have provided testimony as an expert on numerous occasions before the Surface Transportation Board and in federal courts on issues of mergers, competition, ratemaking, and services in the railroad industry.

I.B Summary

TTX has successfully owned and operated a flatcar pool on behalf of the U.S. railroad industry for nearly thirty years. This pool has contributed substantially to the competitive success and revitalization of the railroad industry over this time. In particular, the ownership and operation of the flatcar pool by TTX has contributed to the demonstrable ability of the rail industry to expand its role in the movement of trailers and containers in intermodal movements.

TTX has made significant contributions to the efficiency of the U.S. rail system. As a non-exclusive pool of owned and operated railcars, TTX overcomes a number of the impediments to efficient economic outcomes. By doing so, it promotes a healthy and competitive railroad system, able to better meet shippers' needs and thereby compete more effectively within the nation's multi-mode transportation industry. The rail industry is inherently a network industry characterized by economies of scale, scope and density.

Economic efficiency in a network industry like rail requires the establishment of standards and mechanisms for coordination of capital investments and rolling-stock operations. The need for these standards is amplified in the case of intermodal operations where coordination with non-rail partners is required.

TTX's existence and operations promote a range of substantial public benefits. Through the portfolio effects of risk-sharing involved in a pool, TTX is able to diversify the risk of capital committed to flatcars used in rail service for intermodal, auto, and other commodities' transportation. This spurs investment in flatcars and related equipment – investment needed to support, in particular, the overall expansion of intermodal service. In addition, for any given level of intermodal service, the efficient allocation and deployment of railcars across the nation's rail network by TTX holds down the number of railcars required to provide that level of service. This, in turn, holds down the costs of intermodal service for shippers. Similarly, by internalizing and optimizing maintenance decisions and innovative design decisions, TTX is able to achieve economically efficient outcomes that would otherwise be unavailable to participants in the rail industry.

TTX poses no risk of competitive harm. TTX is a non-exclusive pool, incapable of internalizing the purchase decisions of individual railroads. Individual railroads (and shippers and leasing companies) are free to acquire cars and provide flatcar services independent of TTX. TTX lacks the position in either the provision of flatcar services or the purchases of railcars to unilaterally harm competition. Moreover, to the extent that TTX attempted to restrict the supply of flatcars or limit the demand for railcars, individual railroads and other parties would have the incentive and ability to compete away any advantage that TTX might attempt to earn.

II. PUBLIC BENEFITS OF TTX

II.A TTX's Role in Growth of Rail Traffic

TTX began operating its flatcar pool, with I.C.C approval, nearly 30 years ago.¹ TTX's purpose is to provide its owners – most of the U.S. rail industry – an efficient supply of flatcars on a non-exclusive basis. TTX's flatcar pool consists largely of intermodal platforms and flatcars for auto racks with a smaller number of centerbeam, bulkhead, and other flatcar types.²

Since its last reauthorization in 1994, TTX has invested large amounts – over \$4.2 billion – in expanding and modernizing its flatcar fleet, adding approximately 91,000 intermodal platforms and 20,600 other flatcars. It has provided these cars efficiently at low cost; costs per intermodal platform have fallen in real (inflation-adjusted) terms and in *nominal* (*i.e.*, without even adjusting for inflation) terms since 1994. TTX's overall average usage charges (*i.e.*, car hire rates) are 27 percent less in real terms than they were in 1994, and 42 percent less in real terms for intermodal platforms.³

TTX's investment and pool operation has contributed to the revitalization of the rail industry, with intermodal being perhaps the most compelling illustration. Rail intermodal traffic – the transportation of containers or truck trailers by rail and some other mode, usually trucks and/or container ships – is the fastest growing traffic segment of U.S. railroads. As seen in Figure 1, the volume of intermodal traffic has more than tripled, growing from 2.2 million trailers and containers in 1975 to 9.3 million units in 2002. The revenues earned by railroads from intermodal

¹ American Rail Box Car – Pooling, 347 I.C.C. 862 (1974).

² Wells V.S.

³ Wells V.S.

traffic will soon surpass those derived from coal, railroads' traditionally largest freight segment.⁴

The growth of intermodal traffic stems from and demonstrates the competitive renaissance of the railroad industry. Competition for intermodal traffic is intense; railroads commonly compete with trucks for the long-haul movement and, since intermodal traffic is rarely, if ever, solely served by a single railroad, competition among railroads is also intense. The rail industry has succeeded by providing improving levels of service, timeliness, and value to shippers.

The rail industry is inherently a network industry characterized by economies of scale, scope and density. Activities on one portion of the network can impact activities elsewhere. Standardization, coordination and communication are important for minimizing the inefficiencies that can occur at the "seams" in the network. The extended route systems that have resulted from vertical consolidation in the rail industry have reduced the inefficiencies that otherwise result from interline switching and coordination across railroads.

Intermodal operations economically extend the network beyond the railroads to the other constituents involved in the intermodal transportation system. Successful intermodal operations require extensive coordination and cooperation among the various constituent components of the intermodal system – among railroads, shippers and receivers, trucking operations, ports, and marine carriers. Coordination and standardization are a necessity, while at the same time innovation is required to capture productivity benefits.

Frequency of service, speed, and reliability of delivery increase the demand for rail intermodal transportation service. Improvements in service

⁴ Association of American Railroads, *Rail Intermodal Transportation*, July, 2003.

quality and lower costs generate a virtuous cycle whereby an increased volume of intermodal traffic leads to increased density and frequency, which leads to increased demand.

The sensitivity of intermodal traffic to the quality and reliability of rail service is not surprising. In many cases, the alternative to intermodal shipment is all-truck shipment. Trucks have advantages related to their mobility and flexibility with respect to reaching final destinations and origins. Railroads have proven increasingly able to compete against trucks – by improving rail reliability, reducing damage in transit, and enhancing railroads’ on-time records. TTX has played a substantial role in this regard insofar as TTX has invested in car reliability and its free-running fleet of pool cars – coupled with TTX’s redistribution directives – functions to smooth out system imbalances so that cars are where they are needed when they are needed.

While TTX’s role in the growth of the intermodal segment is a notable success, similar benefits have arisen in flatcars for auto racks and the other flatcar types and uses. TTX engaged in significant research and development to resolve ride-quality issues that previously limited the value of rail service to auto shippers. This resulted in large investments in flatcars used for auto racks. Through the common operation of the pool and TTX’s ability to engage in research that benefits the whole industry, both railroads and shippers benefit.

II.B Economic Benefits of Pooling by TTX

The pooling of flatcars by TTX solves a fundamental problem in a network industry – the coordination of investment, operations and standards across a common network. The North American rail system forms a network over which efficient operations across sections of the network owned and operated by separate railroads must be coordinated and standardized. On some purely theoretical level, these coordination problems could be solved

perfectly through series of bi-lateral negotiations and agreements.⁵ In practice, the costs of negotiation and enforcement, limitations to contracting and observability, and problems of incentives and investment preclude this possibility. Numerous regulatory, multi-lateral, and bi-lateral solutions have arisen in an attempt to solve these network coordination problems in the railroad sector with greater or lesser success.

TTX serves the railroads' and, ultimately, the shipping public's interests by avoiding the costs of trying to achieve network-wide efficiency through innumerable bilateral transactions between pairs of railroads. TTX owns, operates, and maintains a free-running pool of flatcars that it provides to meet railroads' demands. We can imagine a system without TTX's pooling in which demand imbalances across railroads is handled purely by each high-demand carrier at any moment searching out an offsetting low-demand carrier with cars in the right location, negotiating for use of the located cars, ensuring the maintenance of bilaterally acquired cars, ensuring their return to the specific low-demand carrier when demand conditions turn around, and the like. But doing so is to imagine a system that is fraught with friction, missed opportunities, opportunistic strategies, and contractual dispute. In a very real sense, TTX lubricates an otherwise expensive and ill-coordinated system for positioning railcars.

TTX, by owning and operating a common pool of flatcars, is able to diversify the risk of flatcar ownership. With TTX's fleet, no single railroad incurs the capital costs of railcar acquisition. Similarly, as a common pool of railcars, no railroad, unless it elects to have allocated cars (within the limited scope of TTX's current allocation authority), is responsible over an extended period for meeting lease or car hire payments for cars provided by TTX. Unlike cars purchased or leased by a railroad, the TTX pool enables the

⁵ See, for example, Coase, Ronald H., "The Problem of Social Cost," *Journal of Law and Economics* 3:1-44 (1960).

individual railroad to avoid the fixed financial obligation and risks associated with raised capital or meeting lease payments on cars provided by TTX.

TTX, as the owner and operator of a common pool of resources, yields benefits for railroads and their customers arising from the diversification of variations in demand and, hence, risk across railroads. At any point in time, the need for flatcar services can vary from railroad to railroad. While one railroad may be experiencing a rush of demand in one part of the country, another may find its markets to be soft. By reallocating cars from low-demand to high-demand railroads quickly and efficiently, TTX is able to pool risks and reduce the individual railroads' needs to hold "extra" cars in order to meet demand peaks, and to suffer greater numbers of idle cars in low demand times. This holds down the costs of meeting demand at all time periods.

The consequence of TTX's risk diversification for its participating railroads is a more efficient utilization of the stock of flatcars. As detailed by Mr. Wells and Mr. Wise, the operation of the common pool demonstrably results in high levels of utilization and reduced levels of costly movements of empty cars. Approximately 1.4 billion miles of empty flatcar movements are saved annually as a result of utilizing the TTX pool.⁶ Unlike cars under the ownership or control of individual railroads, TTX cars do not need to be returned to their home railroad. Empty TTX flatcars need not be repositioned until requested by TTX to meet the demand of some other railroad. Similarly, because no specific railcars in the TTX pool are associated with any specific railroad, railroads and TTX can meet railroad car demand with any (appropriate) car in the pool. They can position cars efficiently without worrying about directing cars toward a home railroad. TTX pooling provides a more efficient mechanism for capital (*i.e.*, flatcars) to

⁶ Wise V.S.

move across railroad boundaries in the North American rail network than would otherwise be possible.

Higher flatcar utilization generated by TTX pooling allows demand to be met with a smaller fleet of railcars. Less capital is required and the TTX pool permits the rail industry to meet shipper demand at lower cost. The operation of the TTX pool overcomes costs and inefficiencies in coordinating rail network activities to the shipping public benefit.

II.B.1. Maintenance and Repair

TTX operates and/or manages repair and maintenance facilities across the country.⁷ Unlike individual railroads or lessors, TTX as owner and operator of a national pool of flatcars is able to engage in a more efficient maintenance and repair program than otherwise would be possible. TTX has the proper economic incentives to maintain its railcar fleet to provide the optimal combination of cost and reliability to railroads. TTX can direct maintenance and repair across the country, and does not need to concern itself with agency and contracting problems involved in maintenance and repair on “foreign” railroads; there is no distinction between “home” and “foreign” railroad for TTX. As discussed below, TTX can utilize standards and design that make maintenance and repair more efficient than would be possible in the absence of the pool. As Messrs. Hulick, Wells and Wise demonstrate in their verified statements, the result has been uncommonly high availability, low bad order rates, and per-unit costs that have declined over time.

By contrast, non-TTX cars spend much of their time being operated by railroads that do not necessarily have incentives to repair and maintain cars in the most efficient manner possible. While charging appropriate prices to the railcar owner for repair activities undertaken, the inability of the railcar

⁷ Hulick V.S.

owner to monitor the activities and information available to a foreign railroad implies that an efficient level of maintenance would be difficult to achieve outside a pooling arrangement like TTX's.

II.B.2. Standardization and Innovation

The ability to move freight efficiently over the rail system obviously requires standardization. Track, locomotives, railcars, and operations must interoperate in an efficient manner to minimize the impact of inter-railroad seams in the rail network. Intermodal traffic requires additional levels of standardization, as it must encompass capital and operating methods among non-rail participants involved in intermodal movements. While common standards can achieve network economies, they can also create impediments to innovation and improvement; once a standard is established, it can be difficult to change.

On the other hand, TTX encourages the development and application of efficient standards while at the same time overcoming barriers to innovation. TTX possesses the scale necessary to engage in research and development that may benefit the whole industry, and TTX is able to engage in activities that benefit the network as a whole. In the absence of the ability to capture the full benefit of the results of its research (in large part because its cars are often "off-line"), an individual railroad, lessor, or railcar producer lacks the incentive to engage optimally in innovative research activities.

TTX has a long history of research and introduction of innovative technology and standards. As described in more detail by Mr. Hulick, TTX is one of the top five users of the AAR's testing facilities. It has, for example, spent hundreds of millions of dollars examining and resolving ride-quality issues in flatcars used for moving autos. TTX also performs research and engages in design activities for intermodal cars and components. As a large buyer acting effectively on behalf of the whole rail network, TTX can justify

design and research efforts that would be out of reach of individual railroads or manufacturers.

III. COMPETITIVE IMPACTS OF TTX

TTX has undergone multiple regulatory reviews, both during the pre-Staggers Act era and at various stages in the more market-oriented post-Staggers era. During the period of formal oversight following the 1994 extension of TTX's flatcar pooling authority, the Board received no negative comments regarding TTX's activities and dispensed with the final round of formal review. This repeated pattern of explicit and implicit recognition of the positive contributions of TTX is justified.

TTX has enhanced, and will continue to enhance, the competitive position of the rail industry within the nation's overall transportation system. In particular, TTX contributes positively to the competitiveness of the rail industry in precisely those kinds of services where railroads directly confront competition with trucks. As an efficient adaptation to the fact that railroading is a network industry in which risk-spreading and operational coordination are necessities for efficiency, TTX improves rail operations and investment. As a neutral, non-exclusive provider of flatcars for almost 30 years, TTX provides an additional, competitive option to individual railroads in meeting the demands of their shippers.

In assessing the contribution of the flatcar pool to the public interest, it is appropriate to ask whether there would be adverse effects on competition that would offset TTX's demonstrable positive contributions to the efficiency and quality of rail service. In 1989, concerns were raised about the potential for the industry-wide TTX pool to reduce competition and economic efficiency. The ICC considered and rejected two alleged sources of possible competitive harm, arising in theory from (1) some hypothesized monopolistic restriction of the supply in the market that the pool provides (*i.e.*, flatcar services, and the transportation services railroads provide using flatcars), or (2) through some

hypothesized monopsonistic restriction of the demand in the market for the product (*i.e.*, flatcars) used to provide the services.⁸

The ICC properly found that these competitive concerns lacked merit. Today, the activities of TTX present even less risk of harming competition. In nearly 30 years, there has been no credible evidence that TTX has harmed competition in the provision of flatcar services. Indeed, TTX has been a consistent low-cost provider of flatcar services.⁹ TTX has not limited or restricted the ability of individual railroads or other owners of flatcars from providing these services. Individual railroads and shippers, through direct ownership or through control of flatcars via lease from a variety of leasing companies, provide competing alternatives for the provision of flatcar services. Similarly, there has been no credible evidence that TTX possesses or has somehow exercised monopsonistic market power in the buying of flatcars. On the contrary, TTX has been a leader in promoting the use – and, hence, the buying – of flatcars.

III.A Non-Exclusive Pool

The TTX pool operates on a non-exclusive basis. While the TTX flatcar pool provides benefits to the whole railroad industry and its customers, individual railroads are free to purchase or lease flatcars on their own, independent of the TTX pool. Similarly, outside companies can and do purchase railcars and lease or rent these cars to individual railroads. Thus, TTX neither restricts the supply of flatcars available for railroads to use, nor does it restrict the purchasing of flatcars by railroads.

The lack of exclusivity provides an immediate source of competition that constrains any potential for market power on the part of TTX. TTX's inability to exclude competition from multiple sources precludes it from

⁸ Trailer Train Co. – Pooling – Car Service, 5 I.C.C.2d 552 (1989).

⁹ Wells V.S.; Wise V.S.

successfully sustaining any exercise of market power, either as a buyer of cars or seller of flatcar services. If TTX were to attempt to raise flatcar usage charges (or car hire rates) above competitive levels, individual railroads or leasing companies would have the economic incentive and ability to acquire railcars through other channels for use and/or hire. Similarly, if TTX were to somehow attempt to force railcar manufacturers to accept a price below competitive levels, the manufacturers would have the incentive and ability to sell to individual railroads and lessors at higher prices. The TTX pool does not provide a mechanism for precluding competition.

Experience demonstrates that TTX has not prevented railroads or lessors from acquiring and using flatcars. The level of flatcar purchasing by entities other than TTX has grown, and during the period 2000-2002 exceeded the level purchased by TTX. (See Figures 3, 4 and 5.)¹⁰ Thus, despite TTX's operation of an industry-wide pool, other industry participants have confronted no obstacle in obtaining or utilizing flatcars. It is clear that TTX does not limit access to flatcars by non-TTX parties.

III.B Acquisition of Railcars

There is no credible risk that the TTX flatcar pool harms competition for the acquisition of railcars. Concerns about competitive harm typically stem from the possibility that sellers might possess market power with which to raise prices or restrict output. The exercise of market power by *buyers* can in theory also result in competitive harm. Such “monopsonistic” harm can occur if buyers are artificially able to restrict the quantity purchased in the market below competitive levels, so that prices received by sellers become depressed below competitive levels. Such harm occurs only if, by restricting the level of purchases, a buyer or group of buyers is able to limit the *total* quantity purchased by all buyers, *and* sellers are thereby forced to accept

¹⁰ Data on non-TTX purchases during 2003 is not yet available.

lower prices for the goods they sell. Neither of these conditions prevails in the purchase of flatcars by TTX.

Railcar manufacturers demonstrate the ability to readily switch among the production of flatcars and other railcars, save perhaps tank cars.¹¹ Accordingly, it is appropriate to assess TTX's presence in the market as a buyer of flatcars by examining TTX's purchases relative to total railcar deliveries (*e.g.*, as in Figures 2 and 3). Manufacturers of flatcars produce other types of railcars using the same facilities used to produce flatcars. Some manufacturers also produce other large fabricated steel products, such as marine barges, that provide capacity and flexibility for railcar manufacturing.¹² In response to orders for different types of railcars, railcar manufacturers readily adjust their production activities to fulfill these orders. The ability to switch among different types of railcars (and/or other products) implies that any attempt to limit flatcar purchases as a mechanism for driving down the price of flatcars would be thwarted, as the railcar manufacturer will simply build other types of railcars (or other fabricated steel products) if the price it could receive for flatcars were unacceptable.

Moreover, railcar producers have shown great flexibility in their ability to expand and contract production capacity. From 1991 to 1998 railcar deliveries (excluding tank cars) tripled, from less than 20,000 to more than 60,000 cars. Since then, deliveries contracted 80% to a low of less than 12,200 railcars in 2002. (*See Figure 2.*) The railcar industry has been able to expand and contract its supply of railcars without wild swings in prices. The

¹¹ The U.S. Department of Justice ("DOJ") defined market as all cars less tanks in 1989, as reported in 5 ICC 2d 552. Tankcars are manufactured using a somewhat different process, and it is conservative to exclude them from the analysis.

¹² See, for example, 2002 Greenbriar Annual Report at 5: "[The] manufacturing facility, located on a deep water port on the Willamette River, includes marine facilities with the largest side-launch ways on the West Coast. The marine facilities also enhance steel plate burning and fabrication capacity providing flexibility for railcar production."

ability of the industry to adjust the supply of cars to large swings in demand serves to limit or prevent the exercise of market power by buyers of railcars.

TTX is not a dominant purchaser of railcars. As shown in Figure 3, TTX purchases have averaged 16% of deliveries of railcars (excluding tank cars) over the eight year period 1995-2002, a level below that preceding the 1989 and 1994 reauthorizations of the TTX flatcar pool. In no year since 1994 has TTX received more than 25% of railcar deliveries. These levels are well below the levels that preceded the 1994 and 1989 reauthorizations of the TTX flatcar pool by the ICC. They are also well below the threshold of 35% that the Antitrust Division of the Department of Justice uses as a screen for determining whether there are monopsony concerns (market shares above this threshold do not necessarily imply monopsony, but merely warrant more detailed analysis).¹³

III.C Flatcar Services

TTX's inability to exercise monopsonistic market power by profitably restricting purchasing of flatcars has a parallel implication for the provision of flatcar services. For TTX, as a seller of flatcar services, to generate monopolistic competitive harm in the provision of flatcar services, it must be able to profitably restrict the total supply of flatcar services. But, because TTX lacks the ability to restrict the quantity of flatcars purchased, it is unable to control the quantity of flatcars available for use. As shown in Figure 4, in each of the last three years for which data are available, the purchases of flatcars by other railroad industry participants has exceeded that of TTX.

¹³ See, e.g., DOJ Business Review Letter to Ira H. Raphaelson, July 3, 1996 (35% is "safe harbor criterion that the Antitrust Division has employed in reviewing joint-purchasing ventures"); DOJ & Federal Trade Commission ("FTC") Statements of Antitrust Enforcement Policy in Health Care, Statement No. 7 (Aug. 1996) (same); see also Horizontal Merger Guidelines, DOJ and FTC, section 2.2 (establishing 35% threshold for unilateral competitive concerns in merger setting).

As has been discussed above, there are multiple avenues by which a railroad and its customers can obtain flatcar services. Railroads can utilize cars from TTX, cars they own independently, cars they lease under short- or long-term leases, customer provided cars, or cars hired from other railroads. Each of these provides a competitive alternative for the flatcar services available from TTX. Because TTX lacks the ability to reduce the total quantity of flatcars, it lacks the ability to restrict the supply of services produced using the rolling stock.

As a non-exclusive pool, TTX does not control the access to flatcars, nor has it served to increase flatcar usage charges (or car hire rates). To the contrary, as discussed above and in the verified statements of Messrs. Reardon, Wells, Hulick and Wise the pool generates demonstrable efficiency benefits for railroads and their customers that effectively expand the level of flatcar services available. One of these benefits is the consistently low usage charges available through TTX, which have declined in step with TTX's efficiency gains. Since 1994, TTX's average rates for all cars have declined by 13 percent in nominal terms, while average Class 1 railroad car hire rates have increased by 8 percent.¹⁴ For TTX's intermodal fleet, per diem charges have fallen by 42 percent in real terms.¹⁵ This outcome is inconsistent with competitive harm generated by TTX.

Much of TTX's flatcar fleet is used by railroads to carry intermodal traffic. As discussed above, intermodal traffic is a particularly competitive segment of the railroad industry in which competition among railroads and with truck carriage constrains the ability of railroads to raise prices profitably. Railroads require flatcars to provide intermodal transportation (*i.e.*, TOFC/COFC service¹⁶) and flatcar services are an economically

¹⁴ Wise V.S.

¹⁵ Wells V.S.

¹⁶ Trailer on Flat Car / Container on Flat Car.

significant component of railroads' cost of providing TOFC/COFC service. The high degree of competition in intermodal transportation constrains the ability to raise the cost of flatcar services, as any cost increase would drive up the cost of TOFC/COFC transportation, leading to a loss in traffic and revenue.¹⁷

IV. SUMMARY

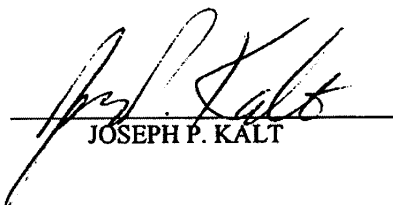
In short, there is no credible basis for concluding that TTX is a non-competitive force in the railroad industry. On the contrary, it is clear that TTX operates under forces of competition and is an important source of efficiency in the building, maintaining, and running of the nation's railroad network. Its reauthorization as proposed is consistent with the public's interest in a healthy, competitive, and efficient railroad system.

¹⁷ Even if there were isolated pockets of transportation service using flatcars for which railroads do not face significant truck and other competition, TTX could not constrain output in those pockets without restricting the broader supply of flatcars needed and compete in markets where trucks and other modes provide effective competition.

VERIFICATION

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF Middlesex) ss

JOSEPH P. KALT, Ford Foundation Professor of International Political Economy
at the John F. Kennedy School of Government, Harvard University, being duly sworn, deposes
and says that he has read the foregoing statement, knows the contents thereof and that the same
are true as stated.


JOSEPH P. KALT

Sworn to and subscribed before me
this 5 day of January, 2004.


Notary Public

My Commission expires 5/28/2010.

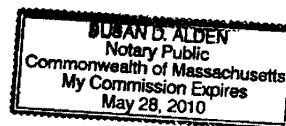
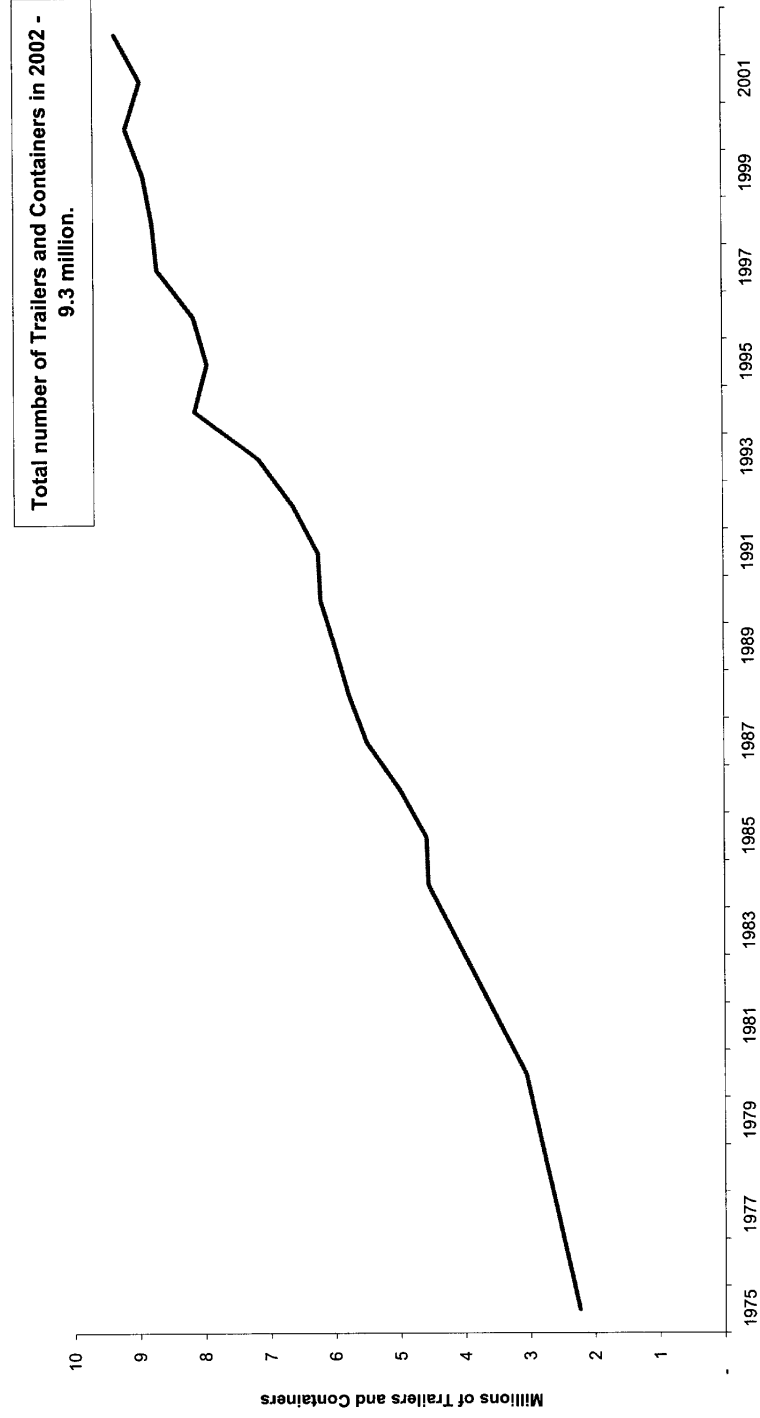


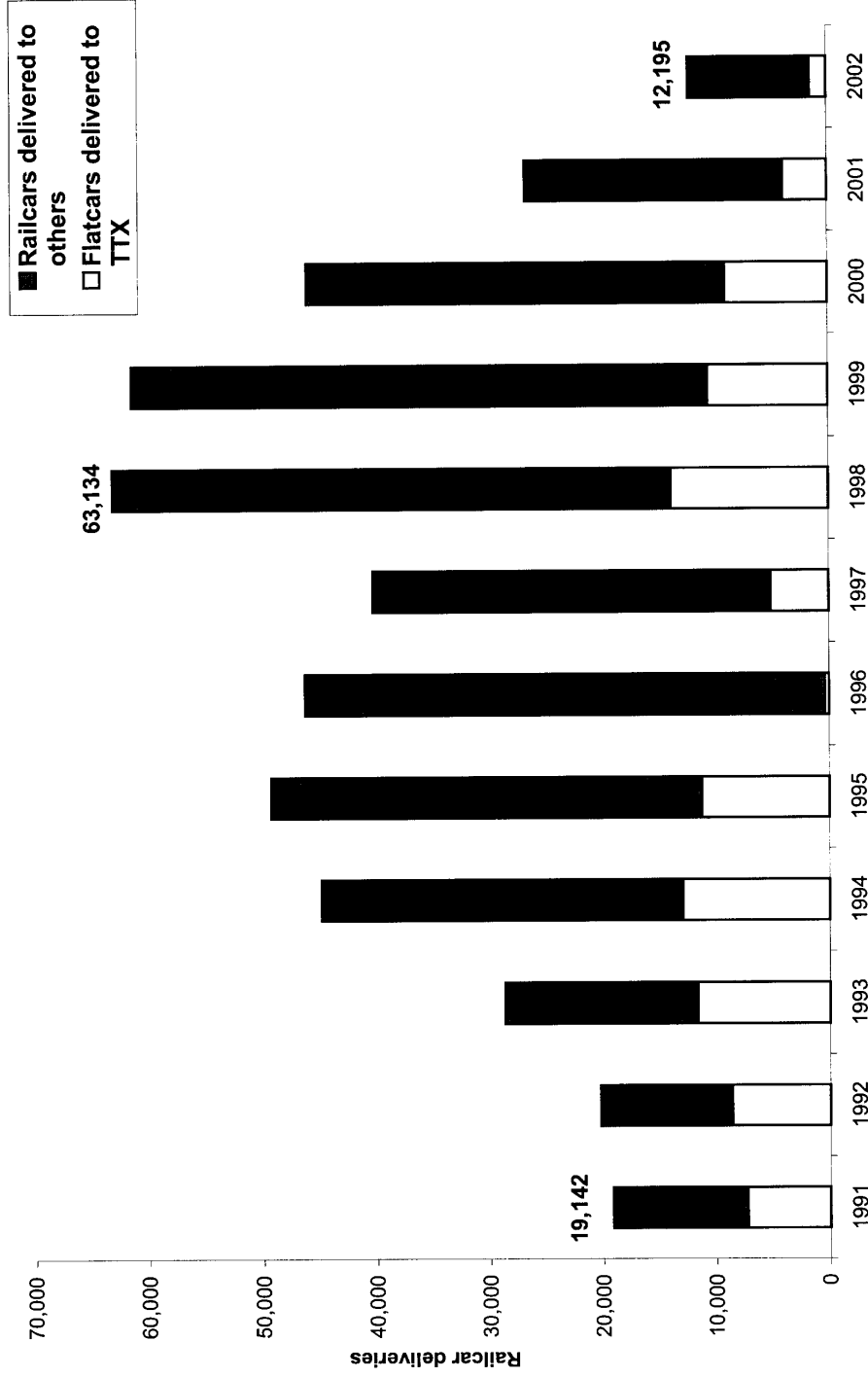
Figure 1
GROWTH IN INTERMODAL TRAFFIC



Note: Beginning in 1995, data excludes two Class I railroads, Grand Trunk Western and Soo Line Railroad Company. Beginning in 1999, data exclude an additional Class I railroad, Illinois Central Railroad.

Source: Association of American Railroads.

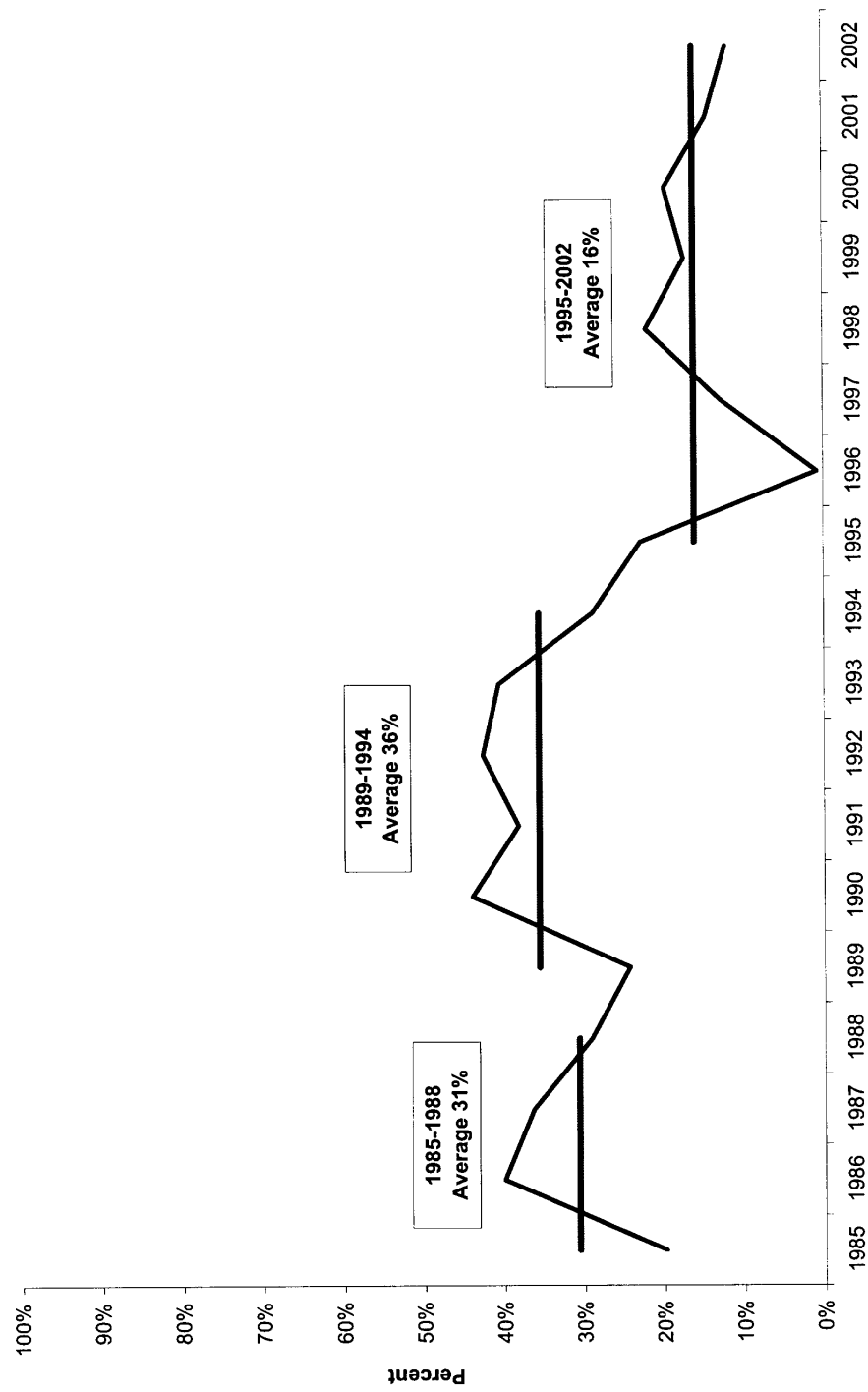
Figure 2
RAILCAR DELIVERIES



Note: Data excludes deliveries of tank cars.

Source: TTX data; RPI quarterly data on Freight Car Orders, Deliveries and Backlogs.

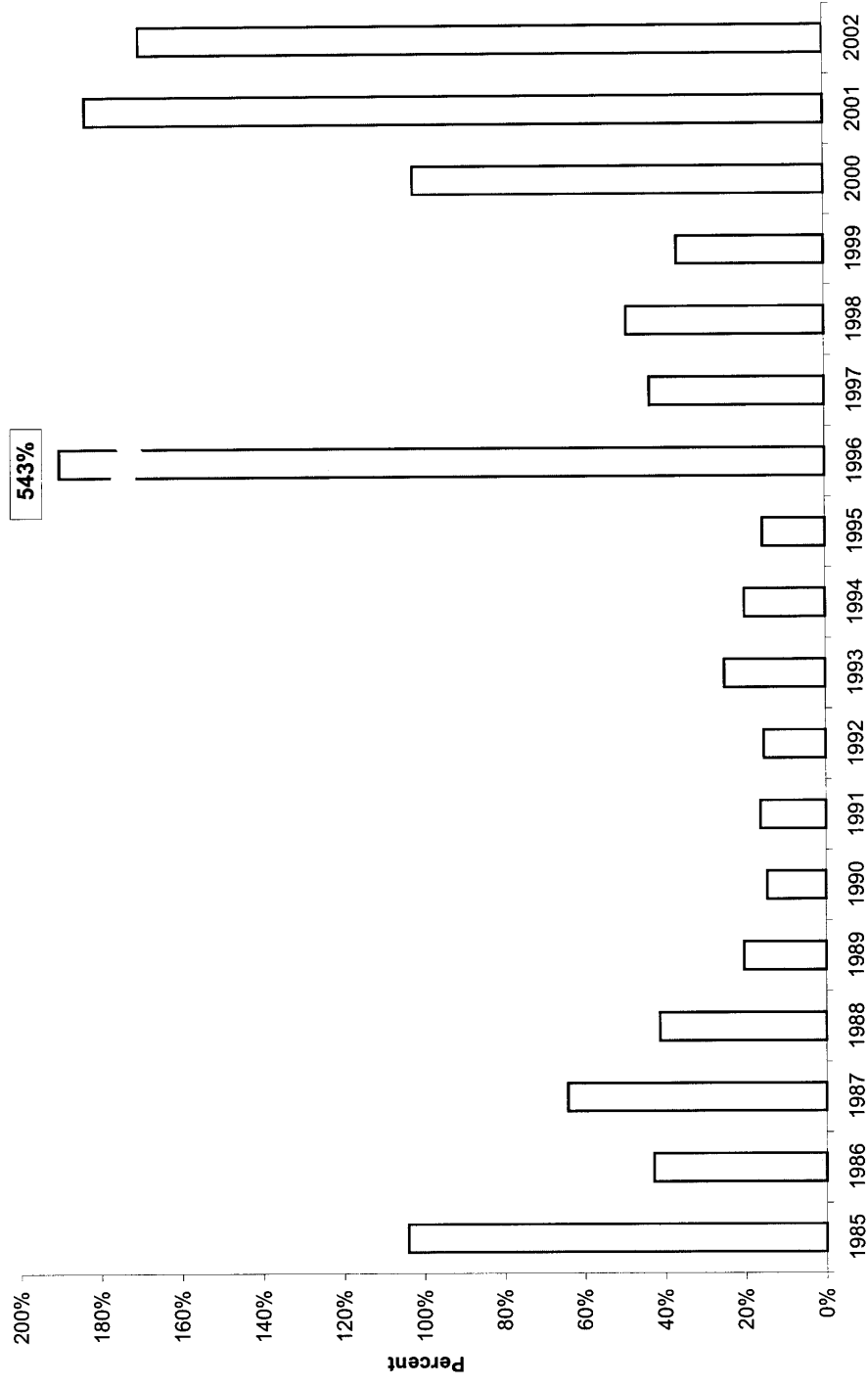
Figure 3
TTX FLATCAR DELIVERIES AS A PERCENTAGE OF TOTAL RAILCAR DELIVERIES



Note: Data excludes deliveries of tank cars.

Source: TTX data; RPI quarterly data on Freight Car Orders, Deliveries and Backlogs.

Figure 4
NON-TTX FLATCAR DELIVERIES AS A PERCENTAGE OF TTX FLATCAR DELIVERIES



Source: TTX data; RPI quarterly data on Freight Car Orders, Deliveries and Backlogs.

Figure 5
TTX AND NON-TTX RAILCAR DELIVERIES
1985-2002

Year	Railcar Deliveries					TTX Flatcars as a percent of Total Flat Cars	TTX Flatcars as a percent of Total Non-Tank Cars	Total Flatcars as a percent of Total Non-Tank Cars
	Flatcars			Other Non-Tank Cars	Total Non-Tank Cars			
	TTX	Others						
			Total					
1985	1,860	1,937	3,797	5,596	9,393	49.0	19.8	40.4
1986	3,375	1,447	4,822	3,609	8,431	70.0	40.0	57.2
1987	3,111	2,001	5,112	3,447	8,559	60.9	36.3	59.7
1988	4,717	1,951	6,668	9,567	16,235	70.7	29.1	41.1
1989	5,274	1,078	6,352	15,384	21,736	83.0	24.3	29.2
1990	11,155	1,626	12,781	12,607	25,388	87.3	43.9	50.3
1991	7,303	1,186	8,489	10,653	19,142	86.0	38.2	44.3
1992	8,630	1,321	9,951	10,301	20,252	86.7	42.6	49.1
1993	11,653	2,921	14,574	14,124	28,698	80.0	40.6	50.8
1994	12,928	2,592	15,520	29,343	44,863	83.3	28.8	34.6
1995	11,240	1,741	12,981	36,314	49,295	86.6	22.8	26.3
1996	352	1,910	2,262	44,027	46,289	15.6	0.8	4.9
1997	5,109	2,217	7,326	32,980	40,306	69.7	12.7	18.2
1998	13,896	6,820	20,716	42,418	63,134	67.1	22.0	32.8
1999	10,581	3,867	14,448	46,974	61,422	73.2	17.2	23.5
2000	9,041	9,239	18,280	27,745	46,025	49.5	19.6	39.7
2001	3,860	7,075	10,935	15,745	26,680	35.3	14.5	41.0
2002	1,453	2,469	3,922	8,273	12,195	37.0	11.9	32.2

Source: TTX data; RPI quarterly data on Freight Car Orders, Deliveries and Backlogs.

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PROFESSIONAL EXPERIENCE

John F. Kennedy School of Government, Harvard University, Cambridge, MA
Ford Foundation Professor of International Political Economy, 1992 - present

Areas of specialization include Industrial Organization, Economics of Antitrust and Regulation, Natural Resource Economics, Public Choice and Political Economy, Microeconomic Theory.

Member, Standing Committee on Higher Degrees in Political Economy and Government, 2002 - present

Faculty Chair, Interfaculty Initiative, Harvard University Native American Program, 2000 - present

Co-Director, The Harvard Project on American Indian Economic Development, 1987 - present

Chair, Economics and Quantitative Methods Cluster, 1995 - 2000

Professor of Political Economy, 1986 - 1992

Faculty Chair and Academic Dean for Research, 1992 - 1994

Chairman, Environment and Natural Resources Program, Center for Science and International Affairs, 1990 - 1994

Chairman of Degree Programs, 1990 - 1992

Chairman of Ph.D. Programs, 1989 - 1990

Assistant Director for Natural Resources, Energy and Environmental Policy Center, 1985 - 1990

Co-Director, Harvard Study on the Future of Natural Gas Policy (with Frank C. Schuller), Energy and Environmental Policy Center, John F. Kennedy School of Government, 1984-86

Department of Economics, Harvard University, Cambridge, MA

Associate Professor of Economics, 1983 - 1986

Assistant Professor of Economics, 1980 - 1983

Instructor in Economics, 1978 - 1980

Taught Economics of Antitrust and Regulation, Intermediate Microeconomics, and Principles of Economics.

President's Council of Economic Advisers, Washington DC

Junior Staff Economist, 1974 - 75

Analyzed federal energy, environmental, transportation, and tax policies.

EDUCATION

University of California, Los Angeles

Ph.D. in Economics, 1980

Dissertation: "Federal Control of Petroleum Prices: A Case Study of the Theory of Regulation"

M.A. in Economics, 1977

Stanford University, Stanford, CA

B.A. in Economics, 1973

TESTIMONY

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American Airlines

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Tosco Corporation

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Exxon Corporation, Shell Oil Company, and Union Oil Company of California

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Te Ohu Kai Moana (Treaty of Waitangi Fisheries Commission)

In the High Court of New Zealand, Auckland Registry, between Te Waka Hi Ika O Te Arawa and Anor, and Treaty of Waitangi Fisheries Commission and ORs; between Te Runanganui O Te Upoko o Te Ika and ORS, and Treaty of Waitangi Fisheries Commission and ORS (Defendants); between Ryder and ORS, and Treaty of Waitangi Fisheries Commission and

ORS; between Te Kotahitanga O Te Arawa Waka and ORS, and Treaty of Waitangi Fisheries Commission and ORS. Affidavit, February 4, 2000.

American Petroleum Institute

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Amoco Production Company and Amoco Energy Trading Corporation

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Reliant Technologies, Inc.

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El Paso Natural Gas Company

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Exxon Corporation

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AIMCOR, American Alloys, Inc., Elkem Metals Company, and SKW Metals & Alloys, Inc.

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"A Comment on 'The Congressional-Bureaucratic System: A Principal Agent Perspective,'" *Public Choice*, Martinus Nijhoff Publishers, Dordrecht, The Netherlands, Vol. 44, 1984, pp. 193-95.

"The Creation, Growth and Entrenchment of Special Interests in Oil Price Policy," in *Political Economy of Deregulation*, Roger G. Noll and Bruce M. Owen, eds., American Enterprise Institute, 1983.

"The Costs and Benefits of Federal Regulation of Coal Strip Mining," *Natural Resources Journal*, October 1983.

"Oil and Ideology in the United States Senate," *The Energy Journal*, April 1982.

"Public Goods and the Theory of Government," *The Cato Journal*, Fall 1981.

"The Role of Governmental Incentives in Energy Production" (with Robert S. Stillman), *Annual Review of Energy*, Vol. 5, Annual Reviews Inc., 1980, pp. 1-32.

"Why Oil Prices Should be Decontrolled" (with Kenneth J. Arrow), *Regulation*, September/October 1979, pp. 13-17.

"Technological Change and Factor Substitution in the United States, 1929-67," *International Economic Review*, Spring/Summer 1977.

"The Capital Shortage: Concept and Measurement" (with George M. von Furstenberg), *The Journal of Economics and Business*, Spring/Summer 1977, pp. 198-210.

"Problems of Stabilization in an Inflationary Environment: Discussion of Three Papers," *1975 Proceedings of the Business and Economic Statistics Section: American Statistical Association Annual Meetings*, pp. 20-22.

PUBLICATIONS AND RESEARCH: RESEARCH REPORTS AND MONOGRAPHS

"The Costs, Benefits, and Public Policy Merits of the Proposed Western Navajo-Hopi Lake Powell Pipeline" (with Jonathan B. Taylor and Kenneth W. Grant II), December 22, 1999.

"A Public Policy Evaluation of the Arizona State Land Department's Treatment of the Island Lands Trust Properties at Lake Havasu City" (with Jonathan B. Taylor and Matthew S. Hellman), August 16, 1999.

"Reserve-Based Economic Development: Impacts and Consequences for Caldwell Land Claims" (with Kenneth W. Grant, Eric C. Henson, and Manley A. Begay, Jr.), August 10, 1999.

"Policy Recommendations for the Indonesian Petrochemical Industry" (with Robert Lawrence, Henry Lee, Sri Mulyani and LPEM, and DeWitt & Company), March 1, 1999.

"American Indian Gaming Policy and Its Socio-Economic Effects: A Report to the National Gambling Impact Study Commission" (with Stephen Cornell, Matthew Krepps, and Jonathan Taylor), July 31, 1998.

Preliminary Report in Response to an IRS Report (with David Reishus), August 8, 1997, and *Preliminary Report Concerning the Value of a Business Opportunity* (with David Reishus), September 12, 1997. Reports prepared on behalf of a large international petroleum company in connection with IRS tax assessment.

"Public Interest Assessment of the Proposed BLM/Del Webb Land Exchange in Nevada," report submitted to the U.S. Department of the Interior on behalf of Del Webb Conservation Holding Corporation, June 25, 1996.

"Politics Versus Policy in the Restructuring Debate," The Economics Resource Group, Inc., funded by Northeast Utilities System Companies, June 1995.

"Indexing Natural Gas Pipeline Rates" (with Amy B. Candell, Sheila M. Lyons, Stephen D. Makowka, and Steven R. Peterson), The Economics Resource Group, Inc., April 1995.

"An Economic Analysis of Electricity Industry Restructuring in New England" (with Adam B. Jaffe), The Economics Resource Group, Inc., funded by Northeast Utilities System Companies, April 1995.

"Oversight of Regulated Utilities' Fuel Supply Contracts: Achieving Maximum Benefit from Competitive Natural Gas and Emission Allowance Markets" (with Adam B. Jaffe), The Economics Resource Group, Inc., funded by Enron Gas Services Corporation, April 1993.

"Incentives and Taxes: Improving the Proposed BTU Tax and Fostering Competition in Electric Power Generation," Harvard University and The Economics Resource Group, Inc., March 10, 1993.

"An Assessment of the Impact of the PT Chandra Asri Petrochemical Project on Indonesia's Economy" (with Henry Lee, Dr. Robert Lawrence, Dr. Ronald M. Whitefield, and Bradley Blesie), The Economics Resource Group, Inc., December 1991.

"The Federal Energy Regulatory Commission's Proposed Policy Statement on Gas Inventory Charges (PL 89-1-000)" (with Charles J. Cicchetti and William W. Hogan), *Discussion Paper Series*, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, July 1989.

"The Redesign of Rate Structures and Capacity Auctioning in the Natural Gas Pipeline Industry," *Discussion Paper Series*, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, June 1988.

"The Redefinition of Property Rights in American Indian Reservations: A Comparative Analysis of Native American Economic Development," *Discussion Paper Series*, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, June 1987

"A Review of the Adequacy of Electric Power Generating Capacity in the United States, 1985-93 and 1993-Beyond" (with James T. Hamilton and Henry Lee), *Discussion Paper Series*, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, June 1986.

"Energy Issues in Thailand: An Analysis of the Organizational and Analytical Needs of the Thailand Development Research Institute," Harvard Institute for International Development, March 1986.

"Possibilities for Competition in the Gas Industry: The Roles of Market Structure and Contracts," prepared for Harvard Study on the Future of Natural Gas Policy, Working Group Meeting, October 1985.

"Natural Gas Decontrol, Oil Tariffs, and Price Controls: An Intertemporal Comparison," Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, April 1985.

"Market Structure, Vertical Integration, and Long-Term Contracts in the (Partially) Deregulated Natural Gas Industry," *Discussion Paper Series*, Harvard Institute of Economic Research, Harvard University, April 1985.

"Can a Consuming Region Win under Gas Decontrol?: A Model of Income Accrual, Trade, and Stockholding" (with Robert A. Leone), *Discussion Paper Series*, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, February 1984.

"Natural Gas Decontrol: A Northwest Industrial Perspective" (with Susan Bender and Henry Lee), *Discussion Paper Series*, John F. Kennedy School of Government, Harvard University, November 1983.

"Natural Gas Decontrol: A Northeast Industrial Perspective" (with Henry Lee and Robert A. Leone), *Discussion Paper Series*, John F. Kennedy School of Government, Harvard University, October 1982.

"Television Industry Self-Regulation: Protecting Children from Competition in Broadcasting" (with George J. Holder), Harvard Institute of Economic Research, Discussion Paper No. 896, April 1982.

"The Use of Political Pressure as a Policy Tool During the 1979 Oil Supply Crisis" (with Stephen Erfle and John Pound), *Discussion Paper Series*, John F. Kennedy School of Government, Harvard University, April 1981.

"Problems of Minority Fuel Oil Dealers" (with Henry Lee), *Discussion Paper Series*, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, April 1981.

OTHER PUBLICATIONS AND LEGISLATIVE TESTIMONY

"Institution Building: Organizing for Effective Management" in *Building Native Nations: Environment, Natural Resources, and Governance*, Stephanie Carroll Rainie, ed., Udall Center for Studies in Public Policy, The University of Arizona, 2003.

Statement to U.S. Senate Committee on Indian Affairs, *Lessons in Economic Development*, Hearings Regarding International Lessons in Economic Development, September 12, 2002 (hearings cancelled September 11, 2002).

Statement to U.S. House of Representatives Committee on Government Reform, Subcommittee for Energy Policy, Natural Resources and Regulatory Affairs, Hearings Regarding Natural Gas Capacity, Infrastructure Constraints, and Promotion of Healthy Natural Gas Markets, Especially in California, October 16, 2001.

Statement to U.S. Senate Committee on Indian Affairs, *Harvard University Native American Program*, Hearings Regarding Native American Program Initiatives at the College and University Level (with Dr. Ken Pepion), June 21, 2001.

Statement to The Surface Transportation Board, *Public Views on Major Rail Consolidations* (with José A. Gómez-Ibáñez), November 17, 2000, and January 11, 2001.

Statement to U.S. Senate Committee on Indian Affairs, *Impact of Federal Development Initiatives in Indian Country*, Hearing Regarding S.2052, of September 27, 2000.

Foreword to *Impossible to Fail*, J.Y. Jones, Hillsboro Press, 1999.

Statement to U.S. House of Representatives, Subcommittee on Energy and Mineral Resources, *Federal Oil Royalty Valuation* (HB 3334), Hearing of May 21, 1998.

Statement to the National Gambling Impact Study Commission, *Economic Impact of Gaming by American Indian Tribes*, Hearing of March 16, 1998.

"Measures Against Tribes Are Counterproductive," editorial (with Jonathan B. Taylor), *Indian Country Today*, September 22-29, 1997.

"American Indian Economic Development," *Tribal Pathways Technical Assistant Program Newsletter*, February 1997, p. 3.

Statement to U.S. Senate Committee on Indian Affairs, *Economic Development in Indian Country*, Hearing of September 17, 1996.

"A Harvard Professor Looks at the Effects of Allowing U.S. Hunters to Import Polar Bear Trophies," *Safari Times*, April 1994.

Statement to U.S. Congress, Joint Economic Committee, Subcommittee on Trade, Productivity and Economic Growth, *The Economic Impact of Lower Oil Price*, Hearing of March 12, 1986.

"Administration Backsliding on Energy Policy" (with Peter Navarro), *Wall Street Journal*, editorial page, February 9, 1982.

Statement to the Energy and Natural Resources Committee, U.S. Senate, *Government Responses to Oil Supply Disruptions*, Hearing of July 28-29, 1981, U.S. Government Printing Office, 1981, pp. 623-630 and 787-801.

"Staff Report on Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry," Ronald S. Bond, *et al.*, Executive Summary, Bureau of Economics, Federal Trade Commission, September 1980.

"Redistribution of Wealth in Federal Oil Policy," *San Diego Business Journal*, August 18, 1980, pp. 22-3.

"The Energy Crisis—Moral Equivalent of Civil War" (with Peter Navarro), *Regulation*, January/February 1980, pp. 41-43.

"Windfall Profits Tax Will Reap Bonanza—But For Whom?" (with Peter Navarro), *The Miami Herald*, December 23, 1979, editorial page.

SELECTED PRESENTATIONS

"The State of U.S. Railroads and the Challenges Ahead," briefing of Capitol Hill staff, Association of American Railroads, April 17, 2003.

"The State of the Railroad Industry and the Challenges Ahead," briefing of Roger Nober, Chairman, US Surface Transportation Board, Association of American Railroads, January 28, 2003.

"The Wealth of American Indian Nations: Culture and Institutions," Federal Reserve Bank of Boston, December 11, 2002.

"The Roots of California's Energy Crisis: Law, Policy, Politics, and Economics," Regulation Seminar, Center for Business and Government, Kennedy School, Harvard University, November 7, 2002.

"Public Policy Foundations of Nation Building in Indian Country," National Symposium on Legal Foundations of American Indian Self-Governance," Mashantucket Pequot Nation, February 9, 2001.

"Twenty-Five Years of Self-Determination: Lessons from the Harvard Project on American Indian Economic Development," Udall Center for Studies in Public Policy, University of Arizona, November 13-14, 1999.

Proceedings of the Fourth Annual DOE-NARUC Natural Gas Conference, Orlando, FL, February 1995.

Keynote Address, "Sovereignty and American Indian Economic Development," Arizona Town Hall, Grand Canyon, AZ, October 1994.

"Is the Movement Toward a Less-Regulated, More Competitive LDC Sector Inexorable?, (Re)Inventing State/Federal Partnerships: Policies for Optimal Gas Use," U.S. Department of Energy and The National Association of Regulatory Utility Commissioners Annual Conference, Nashville, TN, February 1994.

"Cultural Evolution and Constitutional Public Choice: Institutional Diversity and Economic Performance on American Indian Reservations," Festschrift in Honor of Armen A. Alchian, Western Economic Association, Vancouver, BC, July 1994.

"Precedent and Legal Argument in U.S. Trade Policy: Do they Matter to the Political Economy of the Lumber Dispute?" National Bureau of Economic Research, Conference on Political Economy of Trade Protection, February, September 1994.

"The Redesign of Rate Structures and Capacity Auctioning in the Natural Gas Pipeline Industry," Natural Gas Supply Association, Houston, TX, March 1988.

"Property Rights and American Indian Economic Development," Pacific Research Institute Conference, Alexandria, VA, May 1987.

"The Development of Private Property Markets in Wilderness Recreation: An Assessment of the Policy of Self-Determination by American Indians," Political Economy Research Center Conference, Big Sky, MT, December 4-7, 1985.

"Lessons from the U.S. Experience with Energy Price Regulation," International Association of Energy Economists Delegation to the People's Republic of China, Beijing and Shanghai, PRC, June 1985.

"The Impact of Domestic Regulation on the International Competitiveness of American Industry," Harvard/NEC Conference on International Competition, Ft. Lauderdale, FL, March 7-9, 1985.

"The Welfare and Competitive Effects of Natural Gas Pricing," American Economic Association Annual Meetings, December 1984.

"The Ideological Behavior of Legislators," Stanford University Conference on the Political Economy of Public Policy, March 1984.

"Principal-Agent Slack in the Theory of Bureaucratic Behavior," Columbia University Center for Law and Economic Studies, 1984.

"The Political Power of the Underground Coal Industry," FTC Conference on the Strategic Use of Regulation, March 1984.

"Decontrolling Natural Gas Prices: The Intertemporal Implications of Theory," International Association of Energy Economists Annual Meetings, Houston, TX, November 1981.

"The Role of Government and the Marketplace in the Production and Distribution of Energy," Brown University Symposium on Energy and Economics, March 1981.

"A Political Pressure Theory of Oil Pricing," Conference on New Strategies for Managing U.S. Oil Shortages, Yale University, November 1980.

"The Politics of Energy," Eastern Economic Association Annual Meetings, 1977.

WORKSHOPS PRESENTED

Federal Reserve Bank of Boston; University of Indiana; University of Montana; Oglala Lakota College; University of New Mexico; Columbia University Law School; Department of Economics and John F. Kennedy School of Government, Harvard University; MIT; University of Chicago; Duke University; University of Rochester; Yale University; Virginia Polytechnic Institute; U.S. Federal Trade Commission; University of Texas; University of Arizona; Federal Reserve Bank of Dallas; U.S. Department of Justice; Rice University; Washington University; University of Michigan; University of Saskatchewan; Montana State University; UCLA; University of Maryland; National Bureau of Economic Research; University of Southern California

OTHER PROFESSIONAL ACTIVITIES

Board of Trustees, The Communications Institute, 2003-present

Mediator (with Keith G. Allred), Nez Perce Tribe and the North Central Idaho Jurisdictional Alliance, MOU signed December 2002

Chief Mediator *In the Matter of the White Mountain Apache Tribe v. United States Fish and Wildlife Service*, re: endangered species management authority, May-December, 1994

Steering Committee, National Park Service, 75th Anniversary Symposium, 1991-93

Board of Trustees, Foundation for American Communications, 1989-present

Editorial Board, *Economic Inquiry*, 1988-present

Advisory Committee, Oak Ridge National Laboratory, Energy Division, 1987-1989

Commissioner, President's Aviation Safety Commission, 1987-88

Principal Lecturer in the Program of Economics for Journalists, Foundation for American Communications, teaching economic principles to working journalists in the broadcast and print media, 1979-present

Lecturer in the Economics Institute for Federal Administrative Law Judges, University of Miami School of Law, 1983-1991

Research Fellow, Energy and Environmental Policy Center, John F. Kennedy School of Government, Harvard University, 1981-1987

Editorial Board, MIT Press Series on *Regulation of Economic Activity*, 1984-1992

Research Advisory Committee, American Enterprise Institute, 1979-1985

Editor, *Quarterly Journal of Economics*, 1979-1984

Referee for *American Economic Review*, *Bell Journal of Economics*, *Economic Inquiry*, *Journal of Political Economy*, *Review of Economics and Statistics*, *Science Magazine*, *Journal of Policy Analysis and Management*, *Social Choice and Welfare*, *Quarterly Journal of Economics*, MIT Press, North-Holland Press, Harvard University Press, *American Indian Culture and Research Journal*

TEACHING EXPERIENCE

Native Americans at the New Millennium: Nation Building (University-wide, graduate and undergraduate); Introduction to Environment and Natural Resource Policy (Graduate, Kennedy School of Government); Seminar in Positive Political Economy (Graduate, Kennedy School of

Government); Intermediate Microeconomics (Graduate, Kennedy School of Government); Natural Resources and Public Lands Policy (Graduate, Kennedy School of Government); Economics of Regulation and Antitrust (Graduate); Economics of Regulation (Undergraduate); Introduction to Energy and Environmental Policy (Graduate, Kennedy School of Government); Graduate Seminar in Industrial Organization and Regulation; Intermediate Microeconomics (Undergraduate); Principles of Economics (Undergraduate); Seminar in Energy and Environmental Policy (Graduate, Kennedy School of Government)

HONORS AND AWARDS

Allyn Young Prize for Excellence in the Teaching of the Principles of Economics, Harvard University, 1978-79 and 1979-80

Chancellor's Intern Fellowship in Economics, 9/73 to 7/78, one of two awarded in 1973, University of California, Los Angeles

Smith-Richardson Dissertation Fellowship in Political Economy, Foundation for Research in Economics and Education, 6/77 to 9/77, UCLA

Summer Research Fellowship, UCLA Foundation, 6/76 to 9/76

Dissertation Fellowship, Hoover Institution, Stanford University, 9/77 to 6/78

Four years of undergraduate academic scholarships, 1969-1973; graduated with University Distinction and Departmental Honors, Stanford University

Research funding sources have included: The National Science Foundation; USAID (IRIS Foundation); Pew Charitable Trust; Christian A. Johnson Family Endeavor; The Ford Foundation; The Northwest Area Foundation; the U.S. Department of Energy; the Research Center for Managerial Economics and Public Policy, UCLA Graduate School of Management; the MIT Energy Laboratory; Harvard's Energy and Environmental Policy Center; the Political Economy Research Center; the Center for Economic Policy Research, Stanford University; the Federal Trade Commission; and Resources for the Future



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December 10, 2003

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P.O. Box 764188
Dallas, TX 75376-4188
972-299-5151 • 800-733-5151

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, Northwest
Washington, DC 20423-0001

Re: Finance Docket No. 27590 (Sub 3)

Dear Mr. Williams:

I am Dale A. Thompson, Vice President of Intermodal for Dart Transit Company in Eagan, Minnesota.

Dart Transit is a motor carrier with revenues in excess of 300 million dollars. We operate as an Irregular Route Class 1 Carrier with contract and common carrier business.

I have been employed at Dart Transit for 32 years in a variety of operations, sales, and management positions including Vice President of Operations.

We are unique in our incorporation of truck and intermodal integration and the use of our 53-foot and 57-foot van equipment.

Our use of truck/rail is founded in the principle of flexibility and extremely high service. We specialize in using our truck service to move shipments from non-traditional intermodal markets. Our success is largely governed by expediting shipments several hundred miles and meeting high service trains.

This process allows shippers in remote markets to enjoy the financial benefits of intermodal and the service sensitivity that truck operations offer.

Our survival is largely determined by our ability to plan and deliver a truck/rail option that has the financial components of intermodal and the service components of truck.

All of our equipment is high-cube, 53-foot and 57-foot trailers. It is essential that an adequate supply of compatible, well maintained flatcars be available.

In our five-year experience with this endeavor, we have not experienced a single occurrence of service delay due to flatcar availability.

It is my understanding that the TTX model of pooled fleet management and their research and development activities have, in a large degree, allowed intermodal development and expansion.

The Honorable Vernon A. Williams
December 10, 2003
Page 2 of 2

It is our experience that the flatcar fleet is well maintained, designed to minimize damage and wear to our equipment, and allows our customers' freight to arrive damage-free.

TTX has been sensitive to the changing equipment demand and supply. Investment in this industry would suffer if TTX would cease to exist. Individual equipment operations would be less productive, more expensive, and fewer in number if each railroad would invest in equipment. It would severely impact transcontinental shipments and affect fluid flow of traffic through rail yards.

As a truckload provider, we see issues such as driver shortage, fuel price, traffic congestion, equipment costs, insurance expense, hours of service productivity loss, and cost containment to be overwhelming examples of why intermodal activity will expand in our company.

The only factors that would alter intermodal expansion for our company would be equipment shortage or service deterioration.

We support an extension to the pooling authority currently in place. The continued development of equipment, the financial strength to manufacture, and the operational maturity to productively manage the resource support the requested extension.

Sincerely,

DART TRANSIT COMPANY



Dale A. Thompson
Vice President, Intermodal

SURFACE TRAN 121003.doc

cc: Ron Sucik, Director Market Development – TTX Company, 101 N. Wacker Drive, Chicago, IL 60606

HUB GROUP, INC.
3050 HIGHLAND PARKWAY, SUITE 100
DOWNERS GROVE, IL 60515

THOMAS L. HARDIN
PRESIDENT AND
CHIEF OPERATING OFFICER

December 18, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: Finance Docket No. 27590 (Sub-No.3)
TTX Company - Application for Pooling Reauthorization

Dear Mr. Williams:

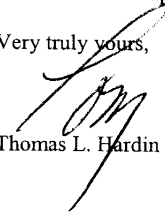
My name is Thomas L. Hardin and I am President and Chief Operating Officer of Hub Group, Inc. Hub Group is the nation's largest intermodal marketing company with annual revenues over \$1.3 billion. We generate in excess of 700,000 intermodal shipments per year.

We understand that TTX is seeking reauthorization of its flatcar pool. We strongly support an extension of TTX's flatcar pooling authority, because we rely on the smooth functioning of the TTX flatcar pool for the growth and success of our business. In addition, TTX facilitates continuing investment by the U.S. railroad industry in the intermodal equipment supply. We believe TTX's pooling arrangements are the foundation for an effective and efficient U.S. intermodal network.

TTX has continually demonstrated its commitments to provide a fleet of high quality, well-maintained intermodal cars. Their experience and expertise in maintaining this equipment ensures that our rail traffic moves with minimum disruption. TTX has worked well with us and others in developing new and improved intermodal equipment to meet our evolving needs.

In conclusion, we support TTX's application for a 15-year extension of its pooling authority to ensure that TTX will continue to supply efficient and economical flatcar service in the years to come. We encourage your approval of the TTX application.

Very truly yours,


Thomas L. Hardin

TLH:kc

bcc: Ronald Sucik, TTX ✓



Longview Fibre Company

Value-Added Products • Sustainable Forestry

December 8, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

RE: Finance Docket No. 27590 (Sub-No. 3)
TTX Company-Application For Pooling Reauthorization

Dear Mr. Williams:

My name is Ivan A. Olson, vice president transportation for Longview Fibre Company. I have license to practice before the Federal Maritime Commission and was admitted to practice before the Interstate Commerce Commission. I have a master of business administration degree from the University of Oregon. My activity in the transportation field extends beyond 35 years.

Longview Fibre Company has headquarters in Longview, WA with operations in the West, midwest and northeast. Our primary product is paper and paper products with production also in the area of solid wood (lumber and logs). Products produced are shipped by rail throughout the United States. We rely heavily on flatcar type of equipment for shipping intermodal traffic and centerbeams for lumber and to some extent flatcars that are equipped for log shipment.

We understand that TTX is seeking reauthorization of its flatcar pool. We support extension of TTX's flatcar pooling authority for shipment of our products as mentioned above.

There is always a high degree of competition for the types of cars to be purchased and we have a concern that flatcars may be overlooked in terms of other commodity type cars. We have a particular concern in the areas of centerbeam cars that continue to be in short supply.

The pooling of equipment will allow an even flow of cars for availability to ship on railroads in all traffic lanes. Our concern is not which railroad owns the equipment, but the availability for timely shipments to customers.

The centralization of ownership should also improve the maintenance of equipment. TTX has a record efficient maintenance thereby reducing delays due to malfunctioning equipment.

CORPORATE OFFICES

300 Fibre Way • P.O. Box 639, Longview, WA 98632
Phone (360) 425-1550 • Fax (360) 575-5934 • www.longviewfibre.com

We support TTX's application for a fifteen-year extension of its pooling authority to ensure that TTX will continue to supply efficient and economical flatcar service to users of rail service.

Sincerely,



Ivan A. Olson
Vice President Transportation
Longview Fibre Company
P. O. Box 639
Longview, WA 98632



December 8, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

RE: Finance Docket No. 27590 (Sub-No. 3)
TTX Company – Application For Pooling Reauthorization

Dear Mr. Williams:

My name is Jeannie Beckett. I am the Senior Director of Inland Transportation for the Port of Tacoma. I have held this position for three and one-half years. Prior to that I was the Director of Budget for thirteen years.

The Port of Tacoma is the sixth largest port in the contiguous United States handling a projected 1,700,000 teu's in 2003. One of the ten best natural deepwater ports in the world, Tacoma lies at the western end of one of our country's most significant trade corridors. The Port is a gateway port meaning a very high percentage (estimated at 70+%) of the containers handled by our port are moving on through bills of lading via rail destined to/arriving from inland destinations or origins. The majority of this traffic moves across the northern tier of the U.S. to/from Chicago and points east. Most of our traffic moves via doublestack rail equipment with some conventional and a few spine cars.

We understand that TTX is seeking reauthorization of its flatcar pool. We strongly support the extension of TTX's flatcar pooling authority, because it will strengthen the Intermodal transportation system in which we are a vital link. The TTX pool ensures that the four ondock Intermodal yards the Port of Tacoma has built remain as fluid as possible, rather than being tied up by switching of cars of different ownership. The availability of a shared pool of intermodal cars ensures that, whichever railroad our customers use, and whichever lanes our customers use, there will be open access to a supply of railcars.

The availability of a shared pool of intermodal flatcars increases rail-to-rail competition by eliminating car supply issues as a possible impediment to competition. Intermodal growth is important to the U.S. economy. The continued growth of intermodal transportation and the continuation of the TTX flatcar pool will increase our company and our customers' ability to operate successfully.

We consider approval of TTX's application to be of critical importance to the continued growth and success of our business. Thus, we support TTX's request for a fifteen-year extension of its carpooling authority.

Sincerely,

Jeannie Beckett
Senior Director, Inland Transportation

cc: Ron Sucik, TTX



Virginia International Terminals, Inc.

P.O. BOX 1387 • NORFOLK, VA 23501-1387 • (757) 440-7000

December 23, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Mr. Williams:

I am writing in support of TTX application for a fifteen year extension of its flatcar pooling authority. We are a terminal operating company working under contract to the Virginia Port Authority in the maritime industry. We manage three marine terminals in the Port of Hampton Roads and have done so since 1972. I have had over 30 years of experience personally in this industry and have watched the intermodal movement of cargo grow from its infancy.

This port handles over 900,000 containers per year and over 20% of the same are handled by rail. The rail movement of containers is vital to our strategy for growth. We work closely with Norfolk Southern and CSX to accomplish a seamless transportation service to our mutual customers, the shippers and consignees of international trade.

More specifically, we perform the loading and unloading of railcars for about 100,000 containers per year and are dependent on the nationwide free flow of suitable railcars. TTX provides this service to the railroads and we are an indirect beneficiary of this valuable service. It would be doubtful that we could handle the rail volume without such a fungible asset as rail car storage and sorting capability is limited. Further, a well maintained and free flowing rail car is an asset which will contribute to the national economy by lowering the cost of delivered goods.

In closing, we ask that you favorably consider the application for the TTX Company pooling authority. It is vital to our port and the national transportation network.

Sincerely,

Richard N. Knapp
Assistant General Manager

RNK/lsn

Terminal Locations: Newport News Marine Terminal, Norfolk International Terminals
Portsmouth Marine Terminal, Virginia Inland Port

M

CAR CONTRACT
Between
TRAILER TRAIN COMPANY

and
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY
 (Railroad Member)

THIS AGREEMENT, made as of July 15, 1960 between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Kansas corporation, hereinafter called "Carrier," and TRAILER TRAIN COMPANY, a Delaware corporation, hereinafter called "Trailer Train,"

WITNESSETH THAT,

WHEREAS, Trailer Train owns or leases a pool of railroad flat cars, bearing the mark "TTX" for identification and being of varying lengths or categories as indicated in the Appendices hereto, which are equipped for the movement of highway trailers by rail; and

WHEREAS, Carrier is a stockholder of Trailer Train and is desirous of participating, together with others, in the use of said cars of Trailer Train; and

WHEREAS, Trailer Train and Carrier desire to enter into an agreement with respect to the furnishing by Trailer Train to Carrier of said cars for the movement of highway trailers (which for the purposes of this agreement shall include demountable containers used in lieu of highway trailers) on the lines of railroad now or hereafter operated by Carrier;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) by each to the other in hand paid, the receipt of which is hereby acknowledged, and of the mutual or respective promises hereinafter set forth to be kept and performed by each, said parties do agree as follows:

1. Trailer Train shall furnish Carrier, to the extent of cars owned by, or under lease to, and available to Trailer Train for that purpose, at junction points or other points on the lines operated by Carrier, sufficient suitably-constructed and suitably-equipped cars, including tie-down equipment, for the road haul movement of trailers on said lines; but Trailer Train is not required hereby to furnish said cars for moving traffic to be switched by Carrier for the account of a connecting railroad and on which Carrier does not receive a road haul.

2. Carrier shall give Trailer Train reasonable advance notice in writing, revising same from time to time as conditions may warrant, of its car requirements under this agreement, specifying in such notice, as far as possible, the railroads over which it prefers to receive such cars.

3. Carrier shall, with reasonable promptness, and without charge to Trailer Train for car movement or detention:

(a) Move, to, from and between connections or to the appropriate point, cars delivered to Carrier in process of being furnished to any railroad connecting with Carrier or being sent to a home point; and

(b) Perform all switching necessary for the movement of such cars.

* ~~The obligations, rights and privileges of The Atchison, Topeka and Santa Fe Railway Company shall include and apply to the use of cars hereunder on the lines of the following Texas corporations: Gulf, Colorado and Santa Fe Railway Company, and Panhandle and Santa Fe Railway Company.~~

For the purposes of this agreement, a home point shall be a point at which a Trailer Train shop or track is located or at which Trailer Train has arrangements for construction of, repairs to or storage of its cars.

Failure by Carrier in any of the foregoing respects shall relieve Trailer Train from all responsibility for loss, damages, or delay resulting therefrom, and Carrier agrees to indemnify Trailer Train against, and save it harmless from, any such loss or damages, or claim thereof, resulting therefrom.

4. It is agreed that cars furnished hereunder are to be loaded and unloaded promptly, and not used for storage.

5. Carrier shall, in the first instance, pay to Trailer Train amounts computed at the rates and in the manner specified in Paragraph 6 hereof. Such payments shall be tentative only and shall be subject to the adjustment provided for in Paragraph 16. It is agreed that the total amount due in any year by Carrier to Trailer Train shall be the amount computed under Paragraph 6, adjusted as provided in Paragraph 16.

6. (a) For each car owned by, or under lease to, Trailer Train and on lines operated by Carrier, Carrier shall pay Trailer Train a per diem charge, and also a rate for each mile of movement of such car, loaded or empty, on the lines of Carrier. Said per diem charge and mileage rate shall be as specified in the particular Appendix hereto which is applicable to the category to which that car belongs. The mileage rate for the cars in any given category shall be determined for each month according to the average number of miles of movement per car per day on Carrier's lines, during the month, of all Trailer Train cars, regardless of category.

(b) Upon certification by Carrier that a car owned by, or under lease to, Trailer Train was located at a particular point on Carrier's lines and not in transportation service during a particular day, Trailer Train will allow Carrier a reclaim of 50% of the per diem charge for that day. A car shall be deemed not to be in transportation service when it is neither under load nor in movement (loaded or empty) at any time during the day.

(c) When a car has been certified under paragraph (b) above for five (5) or more consecutive days, Carrier may request Trailer Train to advise it of disposition to be made of the car. Thereupon Trailer Train shall promptly advise Carrier, and Carrier shall promptly comply with such advice, to deliver the car to some specific connection at a specific junction point (or the nearest practicable point thereto on Carrier's lines), or to a specific home point on Carrier's lines. When a car has been so certified for fifteen (15) or more consecutive days, Trailer Train may advise Carrier, and Carrier shall promptly comply with such advice, to deliver the car to some specific connection at a specific junction point (or the nearest practicable point thereto on Carrier's lines), or to a specific home point on Carrier's lines.

It is expressly understood that, notwithstanding the provisions of this paragraph (c), all retention and movement of Trailer Train cars on Carrier's lines will be subject to the per diem and mileage charges (except where there is abatement of, or reclaim for, per diem under Paragraph 9 hereof) provided in this Paragraph 6, and without charge to Trailer Train.

(d) Where delivery of a car by Carrier to a road-haul connection involves movement by an intermediate switching railroad, Carrier shall be responsible to Trailer Train for per diem and mileage charges, provided in Paragraph 6 hereof, just as though such intermediate switching movement were to occur on Carrier's own lines, and in such event shall also be responsible for any charges made by the intermediate switching railroad; except that where an empty car is being transferred to a road-haul connection pursuant to Paragraph 6(c) (or by agreement in lieu of the procedures in Paragraph 6(c)), or pursuant to request to Trailer Train by such road-haul connection, or by one of its connections, for additional cars, Carrier's responsibility to Trailer Train shall terminate at the end of the lines operated by it and shall not extend to movement on the intermediate switching railroad. If Carrier, as the delivering line of empty cars, advances

charges to an intermediate switching railroad when it is not responsible for such charges because of the exception in the preceding sentence, Carrier shall so certify to Trailer Train and shall be credited on Trailer Train's books with the amount of such advanced charges. Where Carrier requests additional cars from Trailer Train, however, and such cars are delivered to Carrier via an intermediate switching railroad, Carrier shall be responsible to Trailer Train for per diem and mileage charges provided in Paragraph 6 hereof, just as though such intermediate switching movement were to occur on Carrier's own lines, and in such event shall also be responsible for any charges made by the intermediate switching railroad. If Carrier is responsible under the preceding sentence for charges by an intermediate switching railroad but, because it is the receiving rather than the delivering railroad, is not required to pay the intermediate switching railroad, and instead, such charges are paid by the delivering railroad, Carrier shall be debited on Trailer Train's books with the amount of such charges.

(e) Per diem charges and mileage rates shall be applied, and amounts due Trailer Train shall be computed and paid, in the same manner as provided in the then prevailing Code of Per Diem Rules—Freight adopted and promulgated by the Association of American Railroads, to the extent not inconsistent with provisions of this agreement or with any governing law or applicable order of the Interstate Commerce Commission. It is expressly understood that any amounts paid by or charged against Carrier by Trailer Train under mileage rates provided in Rule 18, or any successor rule thereto, of said Code of Per Diem Rules are to be credited against, and are not in addition to, the amounts otherwise due Trailer Train by Carrier under this agreement. It is also expressly understood that any amounts paid to Trailer Train by any railroad or other person or company under said Rule 18, or successor rule thereto, are to be credited against the amounts due Trailer Train by Carrier under this agreement when and to the extent that such payments are with respect to miles of car movement for which Carrier is responsible to and charged by Trailer Train under some provision of this agreement.

(f) Per diem charges and mileage rates provided herein are subject to change, or supplementation for cars of varying design or length, by Trailer Train, pursuant to action of its Board of Directors, on 60 days' advance written notice to Carrier.

7. From the time that it accepts any car owned by, or under lease to, Trailer Train until redelivery of such car to Trailer Train or to some railroad having an effective agreement with Trailer Train for the use of Trailer Train cars (of which Trailer Train shall keep Carrier informed), Carrier shall be responsible to Trailer Train with respect to such car just as though the car is at all times on Carrier's lines, and as though any movements of it were on Carrier's lines, under this agreement, except as provided in the exception set forth in the first sentence of Paragraph 6(d). Carrier specifically agrees that it will make any contractual arrangements with other railroads which may be necessary in order for Carrier to meet its responsibility stated in the preceding sentence.

8. Responsibility for loss of, or destruction or damage to, cars, or parts thereof or appurtenances thereto, shall be as fixed by the then prevailing Code of Rules Governing the Condition of, and Repairs to, Freight and Passenger Cars for the Interchange of Traffic, promulgated by the Association of American Railroads, and said Rules shall establish the rights, obligations and liabilities of Trailer Train and Carrier in respect of all matters to which those Rules relate, except as otherwise provided in this agreement. Responsibility for tie-down and any similar appurtenance or accessorial equipment shall be determined as though such appurtenance or equipment is part of the car; except that, effective October 1, 1958, delivering line shall be responsible, both as between Carrier and Trailer Train and as between Carrier and any railroad having an effective agreement with Trailer Train for the use of Trailer Train cars, for any chains, jacks or other tie-down equipment missing from any car subject to this agreement.

9. Except where the responsibility therefor is placed upon others as provided in Paragraph 8 hereof, Trailer Train agrees to maintain the cars in good condition and repair, according to the Code of Rules referred to in Paragraph 8 hereof. No repairs other than ordinary running repairs

shall be made by Carrier for Trailer Train's account without Trailer Train's prior written consent. Abatement of, or reclaim for, per diem on cars unfit for service shall be governed by pertinent provisions of the then prevailing Code of Per Diem Rules—Freight referred to in Paragraph 6 (e) hereof.

10. Carrier agrees to furnish Trailer Train promptly with complete and accurate reports of all movements of the cars subject to this agreement, including origin and/or destination point, junction information on interline movements, mileage moved, days idle, whether loaded or empty, whether or not in revenue service, and any other information reasonably required for the efficient administration of this agreement.

11. Carrier agrees not to place any lettering or marking of any kind upon any of the cars without prior consent of Trailer Train.

12. Trailer Train agrees to bear all property taxes levied on the cars and to file all property tax reports relating thereto; provided, however, that Carrier will, in the first instance, comply with all laws requiring it to withhold taxes, and file appropriate reports, on amounts due Trailer Train as car hire, and will thereafter advise Trailer Train of all pertinent facts in connection therewith so that Trailer Train may appropriately reimburse or credit Carrier.

13. Trailer Train shall not be liable for any loss of or damage to trailers, containers, commodities in trailers or containers, or any other thing loaded on the cars, unless such loss or damage is caused by or results from negligent repairs of cars by Trailer Train, or negligent failure to make necessary repairs after actual notice of the need for such repairs and actual opportunity to make same. Carrier agrees to indemnify Trailer Train against, and save it harmless from, any such loss or damage or claim thereof occurring on Carrier's lines and for which Trailer Train is not responsible under the preceding sentence.

14. Trailer Train will make available to Carrier technical advice and assistance of persons experienced and well informed with respect to all aspects of trailer-on-flat-car service, including terminal facilities, loading and unloading methods and equipment, tie-down and release methods and equipment and operating procedures.

15. Carrier agrees that it will not sell or otherwise dispose of its Trailer Train stock without first offering same to Trailer Train for purchase at book value as shown on the balance sheet of Trailer Train as of the end of the month preceding the offer. Carrier further agrees that, in the event this agreement is terminated in any manner, it will promptly offer to sell to Trailer Train, at book value as shown on the balance sheet of Trailer Train as of the end of the month preceding termination, all Trailer Train stock then owned by Carrier. Trailer Train shall accept or reject any offer made to it under the provisions of this Paragraph 15 within thirty (30) days.

16. It shall be the policy of Trailer Train to maintain per diem, mileage and other charges at the lowest level required to meet Trailer Train's ordinary and necessary expenses and to establish for it a financial position enabling it to finance necessary car acquisitions on reasonable terms and to keep the cars in proper condition for operation at the highest point of efficiency. It is the intention of the parties hereto that the total compensation paid to Trailer Train by Carrier and all others having Trailer Train car contracts shall be no greater than consistent with the foregoing policy. To that end, the amounts paid by Carrier under Paragraph 6 shall be subject to an adjustment, referred to herein as the "adjustment refund." The adjustment refund for any year shall be determined at the beginning of such year by the Board of Directors of Trailer Train and shall be expressed as a percentage of the amount by which all car-hire compensation earned by Trailer Train during such year shall exceed the ordinary and necessary expenses of operation for such year. In determining the amount of any such adjustment refund, the Board of Directors shall take into account the amount by which, in their judgment, the total car-hire compensation for the year will exceed the expenses for such year, together with such other factors as in their judgment shall be appropriate. The adjustment refund shall be paid to Carrier and all others

having Trailer Train car contracts as an adjustment of per diem, mileage and other charges made to Carrier and such others for the use of Trailer Train cars, such amount to be divided among Carrier and such others on the basis of proportionate car utilization. For the purposes of this paragraph, proportionate car utilization by Carrier shall be determined on the ratio which the total amount paid by Carrier under this agreement as car-hire compensation shall bear to the total received by Trailer Train from Carrier and all others as car-hire compensation under agreements with Trailer Train.

17. Carrier understands that its rights hereunder, including its right to use of cars, are subject to all the terms and conditions of any conditional sale or other financing agreement relating to the cars. Carrier agrees that it will permit the cars to be used only on lines of railroad in the United States of America; provided, however, that the cars may be used in such provinces of Canada as may be agreed upon between Trailer Train and Carrier. Carrier can make no transfer or assignment of this agreement without the prior written consent of Trailer Train. No title, leasehold, or property interest of any kind in cars furnished hereunder shall vest in Carrier, or Carrier's successors or assigns, by reason of this agreement or by reason of delivery to or use by Carrier of the cars.

18. Any difference or dispute arising hereunder which cannot be settled by agreement between Carrier and Trailer Train shall be submitted to two arbitrators, one to be appointed by each party, and if those arbitrators do not agree they shall select a third disinterested and competent person to act with them, and the decision of the three arbitrators so chosen, or a majority of them, shall be final and conclusive upon and between the parties hereto.

If either party does not appoint an arbitrator as aforesaid within fifteen days after receipt of notice from the other party that it desires arbitration, which notice shall state the name and address of the arbitrator by such other party appointed, and does not within such period furnish to such other party the name and address of the arbitrator it has appointed, then the arbitrator appointed by such other party and named in such notice shall appoint a disinterested and competent arbitrator for the defaulting party, and the two arbitrators so appointed shall select and appoint a third to act with them as aforesaid and with like effect.

19. If Carrier shall fail to carry out and perform any of its obligations under this agreement or if a petition in bankruptcy, or for reorganization, or for a Trustee or a Receiver, is filed by or against Carrier, then Trailer Train shall have the right, on thirty (30) days' notice, to take possession of any of its cars then in possession of Carrier and to remove such cars from Carrier's service and also to terminate this agreement. If Trailer Train shall not terminate this agreement, Carrier's liability hereunder shall continue. The rights and remedies herein given to Trailer Train shall not in any way limit its rights and remedies given or provided by law or in equity.

20. This agreement is subject to all Federal, state and municipal laws, rules, regulations and ordinances which may now or hereafter affect, change or modify the terms or conditions hereof or render unlawful the performance of any of the provisions of this agreement.

21. This agreement shall take effect as of the day and year first above written and, except as specifically provided herein, shall inure to the benefit of and be binding upon each of the parties hereto, their respective successors, lessees and assigns, for the period of fifteen (15) years from said effective date and thereafter until terminated by twelve months' prior written notice given by either party to the other; provided, however, that at any time within three (3) years from the effective date hereof, either party may give the other party written notice of intention to terminate this agreement twelve (12) months after the date of such notice, and in such event the agreement shall so terminate. In the event Carrier terminates this agreement by notice given within three (3) years as provided herein, Carrier shall, if Trailer Train so elects, purchase from Trailer Train at appraised value as of the date of termination, but at not less than the aggregate amount

having Trailer Train car contracts as an adjustment of per diem, mileage and other charges made to Carrier and such others for the use of Trailer Train cars, such amount to be divided among Carrier and such others on the basis of proportionate car utilization. For the purposes of this paragraph, proportionate car utilization by Carrier shall be determined on the ratio which the total amount paid by Carrier under this agreement as car-hire compensation shall bear to the total received by Trailer Train from Carrier and all others as car-hire compensation under agreements with Trailer Train.

17. Carrier understands that its rights hereunder, including its right to use of cars, are subject to all the terms and conditions of any conditional sale or other financing agreement relating to the cars. Carrier agrees that it will permit the cars to be used only on lines of railroad in the United States of America; provided, however, that the cars may be used in such provinces of Canada as may be agreed upon between Trailer Train and Carrier. Carrier can make no transfer or assignment of this agreement without the prior written consent of Trailer Train. No title, leasehold, or property interest of any kind in cars furnished hereunder shall vest in Carrier, or Carrier's successors or assigns, by reason of this agreement or by reason of delivery to or use by Carrier of the cars.

18. Any difference or dispute arising hereunder which cannot be settled by agreement between Carrier and Trailer Train shall be submitted to two arbitrators, one to be appointed by each party, and if those arbitrators do not agree they shall select a third disinterested and competent person to act with them, and the decision of the three arbitrators so chosen, or a majority of them, shall be final and conclusive upon and between the parties hereto.

If either party does not appoint an arbitrator as aforesaid within fifteen days after receipt of notice from the other party that it desires arbitration, which notice shall state the name and address of the arbitrator by such other party appointed, and does not within such period furnish to such other party the name and address of the arbitrator it has appointed, then the arbitrator appointed by such other party and named in such notice shall appoint a disinterested and competent arbitrator for the defaulting party, and the two arbitrators so appointed shall select and appoint a third to act with them as aforesaid and with like effect.

19. If Carrier shall fail to carry out and perform any of its obligations under this agreement or if a petition in bankruptcy, or for reorganization, or for a Trustee or a Receiver, is filed by or against Carrier, then Trailer Train shall have the right, on thirty (30) days' notice, to take possession of any of its cars then in possession of Carrier and to remove such cars from Carrier's service and also to terminate this agreement. If Trailer Train shall not terminate this agreement, Carrier's liability hereunder shall continue. The rights and remedies herein given to Trailer Train shall not in any way limit its rights and remedies given or provided by law or in equity.

20. This agreement is subject to all Federal, state and municipal laws, rules, regulations and ordinances which may now or hereafter affect, change or modify the terms or conditions hereof or render unlawful the performance of any of the provisions of this agreement.

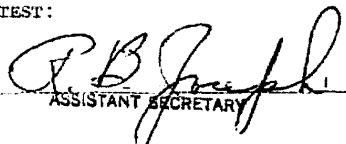
21. This agreement shall take effect as of the day and year first above written and, except as specifically provided herein, shall inure to the benefit of and be binding upon each of the parties hereto, their respective successors, lessees and assigns, for the period of fifteen (15) years from said effective date and thereafter until terminated by twelve months' prior written notice given by either party to the other; provided, however, that at any time within three (3) years from the effective date hereof, either party may give the other party written notice of intention to terminate this agreement twelve (12) months after the date of such notice, and in such event the agreement shall so terminate. In the event Carrier terminates this agreement by notice given within three (3) years as provided herein, Carrier shall, if Trailer Train so elects, purchase from Trailer Train at appraised value as of the date of termination, but at not less than the aggregate amount

of any outstanding indebtedness thereon, cars in which Trailer Train has a transferable interest and which were used solely or chiefly on the Carrier's lines during the six (6) months preceding the notice of termination. In the event Trailer Train terminates this agreement by notice given within three (3) years as provided herein, Trailer Train shall, if Carrier so elects, sell to Carrier at appraised value as of the date of termination, but at not less than the aggregate amount of any outstanding indebtedness thereon, cars in which Trailer Train has a transferable interest and which were used solely or chiefly on Carrier's lines during the six (6) months preceding the notice of termination.

22. This agreement shall supersede, replace and substitute for any prior agreement between the same parties which is in connection with the same subject matter and which also became effective as of the day and year first above written.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in duplicate, by their duly authorized officers as of the day and year first above written.

ATTEST:

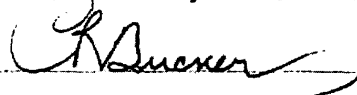

ASSISTANT SECRETARY

Date:

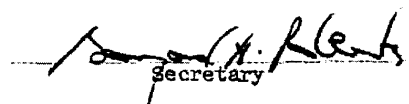
JUL 15 1960

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,

By


Title Vice President

ATTEST:


Secretary

Date:

July 15th, 1960

TRAILER TRAIN COMPANY

By



Title

President

APPENDIX A
to
CAR CONTRACT
with
TRAILER TRAIN COMPANY

Cars 70 to 80 Feet in Length

Per Diem Charge \$3.60

Mileage Rate As Below

Average Car Miles Per Car Day During The Month (All TTC Cars on Line)	Rate Per Mile for Every Mile of Movement on Line During The Month (Cents)
80 or Less.....	3.00
Over 80 but not over 85.....	2.88
Over 85 but not over 90.....	2.77
Over 90 but not over 95.....	2.66
Over 95 but not over 100.....	2.57
Over 100 but not over 105.....	2.49
Over 105 but not over 110.....	2.42
Over 110 but not over 115.....	2.34
Over 115 but not over 120.....	2.28
Over 120 but not over 125.....	2.22
Over 125 but not over 130.....	2.17
Over 130 but not over 135.....	2.12
Over 135 but not over 140.....	2.07
Over 140 but not over 145.....	2.02
Over 145 but not over 150.....	1.98
Over 150 but not over 155.....	1.94
Over 155 but not over 160.....	1.91
Over 160 but not over 165.....	1.88
Over 165 but not over 170.....	1.84
Over 170 but not over 175.....	1.81
Over 175 but not over 180.....	1.78
Over 180 but not over 185.....	1.75
Over 185 but not over 190.....	1.73
Over 190 but not over 195.....	1.70
Over 195 but not over 200.....	1.68
Over 200 but not over 205.....	1.66
Over 205 but not over 210.....	1.63
Over 210 but not over 215.....	1.61
Over 215 but not over 220.....	1.59
Over 220 but not over 225.....	1.57
Over 225 but not over 230.....	1.55
Over 230 but not over 235.....	1.54
Over 235 but not over 240.....	1.52
Over 240 but not over 245.....	1.50
Over 245 but not over 250.....	1.49
Over 250 but not over 255.....	1.47
Over 255 but not over 260.....	1.46
Over 260 but not over 265.....	1.44
Over 265 but not over 270.....	1.43
Over 270 but not over 275.....	1.41
Over 275 but not over 280.....	1.40
Over 280 but not over 285.....	1.39
Over 285 but not over 290.....	1.37
Over 290 but not over 295.....	1.36
Over 295 but not over 300.....	1.35
Over 300.....	1.34

APPENDIX B
to
CAR CONTRACT
with
TRAILER TRAIN COMPANY
Cars Under 70 Feet in Length

Per Diem Charge **\$2.40**
Mileage Rate **As Below**

Average Car Miles Per Car Day During The Month (All TTC Cars on Line)	Rate Per Mile for Every Mile of Movement on Line During The Month (Cents)
80 or Less.....	1.80
Over 80 but not over 85.....	1.73
Over 85 but not over 90.....	1.66
Over 90 but not over 95.....	1.60
Over 95 but not over 100.....	1.54
Over 100 but not over 105.....	1.49
Over 105 but not over 110.....	1.45
Over 110 but not over 115.....	1.40
Over 115 but not over 120.....	1.37
Over 120 but not over 125.....	1.33
Over 125 but not over 130.....	1.30
Over 130 but not over 135.....	1.27
Over 135 but not over 140.....	1.24
Over 140 but not over 145.....	1.21
Over 145 but not over 150.....	1.19
Over 150 but not over 155.....	1.16
Over 155 but not over 160.....	1.15
Over 160 but not over 165.....	1.13
Over 165 but not over 170.....	1.10
Over 170 but not over 175.....	1.09
Over 175 but not over 180.....	1.07
Over 180 but not over 185.....	1.05
Over 185 but not over 190.....	1.04
Over 190 but not over 195.....	1.02
Over 195 but not over 200.....	1.01
Over 200 but not over 205.....	1.00
Over 205 but not over 210.....	.98
Over 210 but not over 215.....	.97
Over 215 but not over 220.....	.95
Over 220 but not over 225.....	.94
Over 225 but not over 230.....	.93
Over 230 but not over 235.....	.92
Over 235 but not over 240.....	.91
Over 240 but not over 245.....	.90
Over 245 but not over 250.....	.89
Over 250 but not over 255.....	.88
Over 255 but not over 260.....	.88
Over 260 but not over 265.....	.86
Over 265 but not over 270.....	.86
Over 270 but not over 275.....	.85
Over 275 but not over 280.....	.84
Over 280 but not over 285.....	.83
Over 285 but not over 290.....	.82
Over 290 but not over 295.....	.82
Over 295 but not over 300.....	.81
Over 300.....	.80

APPENDIX C
to
CAR CONTRACT
with
TRAILER TRAIN COMPANY

Cars Over 80 Feet in Length

Per Diem Charge \$4.00

Mileage Rate As Below

Average Car Miles Per Car Day During The Month (All TTC Cars on Line)	Rate Per Mile for Every Mile of Movement on Line During The Month (Cents)
80 or Less.....	3.30
Over 80 but not over 85.....	3.17
Over 85 but not over 90.....	3.05
Over 90 but not over 95.....	2.93
Over 95 but not over 100.....	2.83
Over 100 but not over 105.....	2.74
Over 105 but not over 110.....	2.66
Over 110 but not over 115.....	2.57
Over 115 but not over 120.....	2.51
Over 120 but not over 125.....	2.44
Over 125 but not over 130.....	2.39
Over 130 but not over 135.....	2.33
Over 135 but not over 140.....	2.28
Over 140 but not over 145.....	2.22
Over 145 but not over 150.....	2.18
Over 150 but not over 155.....	2.13
Over 155 but not over 160.....	2.10
Over 160 but not over 165.....	2.07
Over 165 but not over 170.....	2.02
Over 170 but not over 175.....	1.99
Over 175 but not over 180.....	1.96
Over 180 but not over 185.....	1.93
Over 185 but not over 190.....	1.90
Over 190 but not over 195.....	1.87
Over 195 but not over 200.....	1.85
Over 200 but not over 205.....	1.83
Over 205 but not over 210.....	1.79
Over 210 but not over 215.....	1.77
Over 215 but not over 220.....	1.75
Over 220 but not over 225.....	1.73
Over 225 but not over 230.....	1.71
Over 230 but not over 235.....	1.69
Over 235 but not over 240.....	1.67
Over 240 but not over 245.....	1.65
Over 245 but not over 250.....	1.64
Over 250 but not over 255.....	1.62
Over 255 but not over 260.....	1.61
Over 260 but not over 265.....	1.58
Over 265 but not over 270.....	1.57
Over 270 but not over 275.....	1.55
Over 275 but not over 280.....	1.54
Over 280 but not over 285.....	1.53
Over 285 but not over 290.....	1.51
Over 290 but not over 295.....	1.50
Over 295 but not over 300.....	1.49
Over 300.....	1.47

THIS DOCUMENT MUST BE RETURNED TO THE
OFFICE OF THE SECRETARY,
ROOM 1844
TRANSPORTATION CENTER
SIX PENN CENTER PLAZA, PHILADELPHIA.

SUPPLEMENTS NOS. 1- 14
HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 15.

SUPPLEMENT NO. 15
to
TRAILER TRAIN COMPANY FORM A CAR CONTRACT

(This Supplement supersedes Supplement
No. 4 - see explanation below)

It is hereby agreed that effective as of February 1, 1968, the Form A Car Contract is amended as follows:

1. Trailer Train when requested by Carrier will accept, and will endeavor to collect, the amounts which are payable, in respect of Trailer Train cars under the terms of any agreement (hereinafter in this Supplement called "Agreement"), a copy of which has been furnished to Trailer Train, made by Carrier with another railroad which does not have an effective agreement with Trailer Train as to Trailer Train cars (hereinafter in this Supplement called "Railroad"). The amounts accepted or collected under each Agreement of Carrier with a Railroad shall be credited:

First, against the sums due to Trailer Train from Carrier under the terms of the Form A Car Contract in respect of Trailer Train cars delivered to or received by the Railroad; and

Second, any balance remaining shall be credited to the account of Carrier.

2. If the sum or sums accepted or collected by Trailer Train from Railroad under its Agreement with Carrier are not sufficient to pay the amounts due to Trailer Train from the Carrier under the Form A Car Contract, including paragraph 7 thereof, in respect of cars delivered to or received by Railroad, the deficiency or deficiencies shall be paid to Trailer Train by Carrier.

3. If a Railroad refuses, in whole or in part, to make payments to Trailer Train in accordance with the terms of it's Agreement with Carrier, Trailer Train will not be required to enforce the terms of the Agreement; and Carrier shall remain liable to Trailer Train for all amounts payable, in respect of cars under the terms of the Form A Car Contract, including paragraph 7 thereof.

(Supplement No. 4 will cease to be effective since the provisions of paragraph 1 of Supplement No. 4 are incorporated into Supplement No. 12; and the provisions of paragraph 2 of Supplement No. 4 are included in this Supplement No. 15.)

APPROVED:

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

Date: FEB 29 1968

By 

Title VICE PRESIDENT

TRAILER TRAIN COMPANY

Date: FEB 12 1968

By 

Title PRESIDENT

SUPPLEMENTS NOS. 16 - 28

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 29.

SUPPLEMENT NO. 29
TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT

Pursuant to action taken by the Board of Directors of Trailer Train Company on July 22, 1971, Supplement No. 8 is hereby amended, effective October 1, 1971, to read in full as follows:

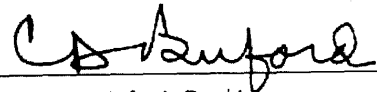
"Paragraph 6 of the Form A Car Contract as heretofore modified is further modified as follows with respect to Trailer Train Company cars which have been equipped with automobile racks:

When Carrier A has an agreement with Carrier B — Carrier B being the owner of the automobile rack installed on a Trailer Train Company car — which provides that Carrier B will allow a reclaim to Carrier A for days that the rack equipped car is on the lines of Carrier A and not in transportation service, upon receipt of a copy of such agreement by Trailer Train Company, Carrier A will be responsible for payment to Trailer Train Company of the net per diem charges payable to Trailer Train Company and Carrier B will be responsible to Trailer Train Company for the balance of the per diem charges payable to Trailer Train Company for such car. Carrier B shall pay the balance of per diem charges for such car as billed by Trailer Train Company. Differences in respect of amounts reclaimed shall be resolved between Carriers.

If no reclaim agreement between Carriers is furnished to Trailer Train Company by the Carriers involved, or if any Carrier B refuses to honor its agreement to allow a reclaim to any Carrier A, or if any Carrier A shall fail to present its reclaim or notice of reclaim to Trailer Train Company within two months and ten days of the last day of the month in respect of which the reclaim accrued, then payments to Trailer Train Company for automobile rack cars will be made by such carriers in accordance with paragraph 6 of the Form A Car Contract, as modified and this Supplement No. 8 shall not be applicable.

TRAILER TRAIN COMPANY

By:



C. D. Buford, President

Dated: July 30, 1971

SUPPLEMENTS NOS. 30 - 39

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

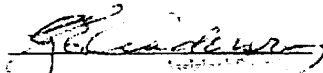
Supplement No. 40.

SUPPLEMENT NO. 40
TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT


It is hereby agreed that effective as of October 1, 1974, Section 16 of the Trailer Train Company Form A Car Contract, as amended and supplemented, is hereby amended in its entirety to read as follows:

It shall be the policy of Trailer Train to maintain per diem, mileage and other charges at the lowest level required to meet Trailer Train's ordinary and necessary costs and expenses, including, as appropriate, return on investment, to maintain a financial position enabling it to finance flat car acquisitions on reasonable terms and to keep the cars in proper condition for operation at the highest point of efficiency and to accumulate retained earnings adequate to support continued reasonable enlargement of the number of cars in the pool, to that number found to be needed. It is the intention of the parties hereto that the total compensation paid to Trailer Train by Carrier and all others having Trailer Train car contracts shall be no greater than consistent with the foregoing policy. To the extent that per diem, mileage and other charges exceed the criteria set forth above, such charges may be subject to adjustment, referred to as an "adjustment refund", as provided herein. An adjustment refund for any year may be determined at the beginning of the following year by the Board of Directors of Trailer Train and be expressed as a percentage of the amount by which all car-hire compensation earned by Trailer Train during such prior year shall exceed the ordinary and necessary expenses of operation, together with the net earnings to be retained by it, for such year. In determining the amount of any such adjustment refund, said Board of Directors may take into account such other factors as in their judgment shall be appropriate. The adjustment refund, if and to the extent declared by the Board and approved by the Interstate Commerce Commission, shall be paid to Carrier and all others having Trailer Train car contracts as an adjustment of per diem, mileage and other charges paid by them for the use of Trailer Train cars during such prior year, such amount to be divided among them on the basis of proportionate car utilization by each. For the purposes of this paragraph, proportionate car utilization shall be the ratio which the total amount paid by Carrier as car-hire compensation shall bear to the total received by Trailer Train from Carrier and all others as car-hire compensation.

ATTEST:


Date: SEP 24 1974

ATTEST


Date: August 28, 1974

APPROVED

THE ATCHAFALAYA TOWNSHIP AND SANTA FE RAILWAY COMPANY

(Railroad)

By:  ✓

Title: VIC. PRESIDENT - FINANCE

TRAILER TRAIN COMPANY

By: 

Title: President

SUPPLEMENTS NOS. 41 - 68

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 69.

SUPPLEMENT NO. 69
TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT

It is hereby agreed between the signatories hereto that effective January 1, 1983, in accordance with Paragraphs 6(f) and 8 of the Form A Car Contract between Carrier and Trailer Train that notwithstanding Paragraph 9 of said Contract, the following terms and conditions shall govern responsibility for the maintenance, in good condition, of Trailer Train cars bearing prefix TTLX and assigned to Carrier:

- I. Trailer Train agrees to furnish Carrier with cars which are suitable for transportation service and which meet all of the then prevailing rules as contained in the Code of Rules Governing the Condition of and Repairs to Freight and Passenger Cars for Interchange of Traffic, promulgated by the Association of American Railroads ("Interchange Rules"). Carrier agrees that all cars so furnished for assignment to Carrier meet the conditions as defined above, unless Carrier, through Joint Inspection, takes exception to the condition of such car or cars at the time Carrier receives such car(s) for assignment.
- II(a). Carrier shall be responsible for all Owner Responsibility maintenance, as defined by the Interchange Rules, including but not limited to all unfair usage damage, whether or not documented, as if Carrier were the car owner. In cases where undocumented unfair usage occurs, Trailer Train agrees to assist Carrier in its investigation to establish a responsible carrier.
- (b). In the case of Extensive Owners Repairs, as defined by Rule 108 of the Interchange Rules, which are determined to be required either by a handling line railroad or at a Trailer Train authorized repair facility, Trailer Train agrees to provide estimates to, and secure approval of, Carrier prior to performance of the work.
- III. Trailer Train agrees to accept billing from handling line carrier and Trailer Train authorized shops for those repairs identified in Paragraph II above. Trailer Train will pay such handling line carrier or

Supplement No. 69 (continued)

authorized repair shop as billed, and Carrier agrees to reimburse Trailer Train for such charges upon presentation of billing as follows:

- (a). Carrier agrees to accept a separate bill each month to cover Owners repairs for assigned TTLX cars under the provisions of this Supplement. Such billing will be presented once each month and will include:
 - (1). Billing received by Trailer Train for repairs performed and billed under the Interchange Rules. Trailer Train agrees to provide billing information to substantiate repairs performed by the handling line which are in the format outlined in AAR Interchange Rule 83.
 - (2). Billing which is presented by Trailer Train authorized shops for Owners work performed on assigned TTLX cars under this Supplement. Carrier will be provided documentation for these repairs at least as detailed as the AAR requires in its Rule 83. That documentation, however, need not be in the format shown in Rule 83, provided it meets all other requirements. The labor rate and material charges shall be the same as that paid by Trailer Train to the authorized shop for performance of Owner Responsibility maintenance. No mark-up on either of these rates or charges shall be received by Trailer Train on such work performed.
- (b). Carrier agrees to make payment to Trailer Train, for the cost of Owners repairs to assigned TTLX cars covered under this Supplement, within thirty (30) days of presentation of such billing by Trailer Train to Carrier.
- (c). Should disputes arise over the validity of specific repair charges, Carrier agrees to promptly reimburse Trailer Train in accordance with paragraph III(b) above. Carrier agrees to be responsible for reconciliation of any differences with the billing carrier or authorized shop. Trailer Train, however, will make every reasonable effort to assist Carrier by providing any information Trailer Train has, or can reasonably develop, to assist Carrier in substantiating its claim.

Supplement No. 69 (continued)

- IV. For the purpose of this Supplement, reasonable wear and tear shall be defined as that which occurs under normal operating conditions, but has not reached the limits as defined in Section A of each rule in the Field Manual of the AAR Interchange Rules.

APPROVED:

THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY

ATTEST:

[Signature]
Title: SECRETARY
Date: DEC 1 1987

By: *[Signature]*
Title: President

ATTEST:

TRAILER TRAIN COMPANY

[Signature]
Title: Secretary
Date: October 20, 1987

By: *[Signature]*
Title: President

SUPPLEMENTS NOS. 70 - 75

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 76.

SUPPLEMENT NO. 76

TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT
(Effective as of September 1, 1983)

Pursuant to action taken by the Board of Directors of Trailer Train on July 28, 1983, it is hereby agreed between the signatories hereto that effective as of September 1, 1983, paragraph 6(f) of the Form A Car Contract between Carrier and Trailer Train is amended and supplemented so as to provide in full as follows:

- (f) Car hire charges provided herein are subject to change, or supplementation for cars of varying design or length, by Trailer Train, pursuant to action of its Board of Directors or the Executive Committee on 15 days' advance written notice to Carrier. Trailer Train's President, in his discretion, may reduce car hire charges 20% below the level otherwise approved by the Board of Directors or the Executive Committee of Trailer Train, or may increase rates (reduced by management action pursuant to the foregoing authority) back to the level most previously approved by the Board of Directors or the Executive Committee on 15 days' advance written notice to Carrier.

APPROVED:

ATTEST:

The Atchison, Topeka and
Santa Fe Railway Company

(Carrier)

BY:

Executive Vice President

DATE:

8-12-83

ATTEST:

TRAILER TRAIN COMPANY

BY:

President

DATE:

July 29, 1983

SUPPLEMENT NO. 77
HAS BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 78.

SUPPLEMENT NO. 78

TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT
SUPERSEDING SUPPLEMENT NO. 71

It is hereby agreed between the signatories hereto that effective as of January 1, 1984, Supplement No. 71 to the Form A Car Contract between Carrier and Trailer Train is superseded and sub-paragraphs 3(c), (d), (e), (f), (g) and (h) of the said Contract, as supplemented, shall read in full as follows:

- (c) Trailer Train shall pay Carrier a Basic Mileage Rate (BMR) and/or an Incremental Mileage Rate (IMR) per tariff mile for the movement of Trailer Train cars over Carrier's lines as shown below at the herein described rates when such movements are made in accordance with Trailer Train Car Movement Directives (CMD).

The BMR hereby established shall be the average nationwide cost per mile for the movement of an empty car and shall be calculated annually by Trailer Train in accordance with the then most currently available Interstate Commerce Commission Rail Form A costs for such elements as the cost per gross ton mile, inspection costs, train supplies costs, inter-train switching costs, interchange switching costs, and station clerical costs as reported to and summarized by the Interstate Commerce Commission and escalated by an appropriate inflation factor. Trailer Train shall notify Carrier annually of the BMR and any changes thereto. The IMR hereby established shall be Carrier's car hire cost per tariff mile for use of Trailer Train equipment calculated by dividing total car hire charges reported by Carrier for the preceding calendar year by total mileage reported by Carrier for the use of Trailer Train equipment during such year. The IMR so obtained shall be adjusted from time to time to reflect Trailer Train car hire rates in effect at the time of issuance by Trailer Train of applicable CMD. Payment to Carrier of charges based on the IMR as hereinafter provided shall be in lieu of car hire relief. Commencing with the date such a Trailer Train Company CMD(s) is issued, no car hire relief will be granted on such directed car(s) for which IMR or combined mileage rate payments become due the carrier.

The Combined Mileage Rate (CMR) as used hereinafter shall be defined as the total of the BMR and the IMR.

- (1) Trailer Train shall pay Carrier the BMR per tariff mile for the movement of a new car from the point where such car was built to the lines of the Carrier to which such car is destined for service (including but not limited to, transportation to and from any place to which such new car is being moved for application of a superstructure or other special device), or to the point at which such car is loaded, if such be a lesser distance.
- (2) Trailer Train shall pay Carrier the CMR per Tariff mile for the movement of a deracked car from the point of deracking to an authorized repair facility for refurbishing or modification for other service.
- (3) Trailer Train shall pay the CMR per tariff mile for the movement by Carrier of a car to car builder or equipment manufacturer, for application of a rack or other special device, and the return of such car to rack or device owner, or to the initial loading point (whichever is the lesser distance) if the movement is made for the convenience of, and at the request of, Trailer Train.
- (4) For the movement of a car withdrawn from service by Trailer Train for program maintenance, modification, inspection, or retirement, Trailer Train shall pay the CMR per tariff mile from the point where the car was taken out of service to the designated repair facility. (The IMR portion of the CMR shall be subject to a minimum of 150 miles per car). When such a car is delivered from the repair facility to a designated Carrier other than the Carrier physically serving the repair facility, Trailer Train shall pay Carrier involved in the movement at the Combined Rate per tariff mile for movement of the car from the repair facility to the Trailer Train designated junction of the receiving Carrier. (The IMR Portion of the CMR shall be subject to a minimum of 150 miles per car). In addition, Trailer Train shall pay a \$10 switching allowance to the line haul Carrier physically serving the repair facility for inbound and outbound switching service except when serving Carrier performs only switching service within a switching district. When the Carrier physically serving the repair facility performs only

switching service within a switching district and cars are received from or delivered to another Carrier, Trailer Train shall pay such Carrier a 50-mile minimum per car at the CMR. If such car is directed to the Carrier physically serving the repair facility, no outbound mileage or switching allowance shall be paid. Mileage payments for line haul service to a Carrier physically serving a repair facility shall be subject to a 100-mile minimum at the CMR.

- (d) (1) Trailer Train shall not be liable for any charges calculated at the BMR for movement of a car to or from a repair facility except as specifically provided hereinafter and in subparagraphs 3(c) (1), (2), (3) and (4). Trailer Train shall pay the IMR per tariff mile subject to a minimum of 150-miles per car, for movement over Carrier's lines of a car to or from a repair facility for the performance, at the expense of Trailer Train, of work not specifically described in subparagraph 3(c) (4). Trailer Train shall pay a switching allowance of \$10 to a line haul Carrier physically serving the repair facility for a car received from another Carrier and moved to a designated on-line repair facility. In addition, Trailer Train shall pay a switching allowance of \$10 to the Carrier physically serving the repair facility for the outbound movement of a car in line-haul service to another Carrier. When such Carrier performs only switching service within a switching district and cars are received from or delivered to another Carrier, Trailer Train shall pay to such Carrier a 50-mile minimum per car at the CMR. When Carrier requests disposition to a Trailer Train designated repair facility for repairs other than wreck damage, program maintenance, modification, inspection, or retirement of a Trailer Train owned car, Carrier shall pay the BMR per tariff mile to Trailer Train for disbursement to intermediate and repair facility serving Carriers participating in the move to the repair facility, and in the event such movement is over the lines of a nonparticipant to this agreement, Carrier shall reimburse Trailer Train for any transportation charges incurred in such movement. In addition, on all cars other than unassigned free-running cars, Carrier shall pay the BMR per tariff mile to Trailer Train for movement from the repair facility to the lines of

the Carrier to which the car is destined for service or to the point at which such car is loaded, if such be a lesser distance, for disbursement to intermediate and repair facility serving Carriers participating in the move from the repair facility, and in the event such movement is over the lines of a nonparticipant to this agreement, Carrier shall reimburse Trailer Train for any transportation charges incurred in such movement. When, after being repaired, unassigned free-running cars are directed to a Carrier other than the repair facility serving Carrier, Trailer Train shall pay per tariff mile the CMR, as established hereinabove, until such cars reach the lines of the Carrier to which destined for service. In the event the repair facility serving carrier is a nonparticipant to this agreement, the Carrier which requested disposition for such car, as specified above, shall reimburse Trailer Train for any transportation charges incurred in such movement.

- (2) Trailer Train shall not be responsible for any mileage payments for movement to a repair facility of a wreck damaged car, but shall pay the IMR per tariff mile subject to a minimum of 150-miles per car to Carriers participating in the movement of such cars from a repair facility to the lines of the Carrier other than the repair facility serving Carrier, to which it is destined for service or to the point at which such car is loaded, if such be a lesser distance. Carrier responsible for wreck damage on a car, other than an unassigned free-running car, shall pay to Trailer Train the BMR per tariff mile for the movement of such car from a repair facility to the lines of the Carrier other than the repair facility serving Carrier, to which such car is destined for service or to the point at which such car is loaded, if such be a lesser distance, for disbursement to intermediate and repair facility serving Carriers participating in the move from the repair facility. Trailer Train shall pay the BMR per tariff mile to Carriers participating in the movement of a wreck damaged unassigned free-running car from a repair facility to the lines of the Carrier to which such car is destined for service. In addition, Trailer Train shall pay a switching allowance of \$10 to Carrier physically serving the repair facility for the outbound movement of such cars directed to another Carrier.

- (3) Trailer Train shall not be liable for any charges calculated at the BMR for movement of a car to or from a repair facility when such movement originates on the lines of a Carrier which is not a signatory to this agreement.
- (e) Carrier's prompt written notice to the repair facility of the availability of a car in the serving yard of such repair facility, with copy to Trailer Train's Controller, shall constitute compliance with applicable CMD on such car and shall constitute the date and time for commencement of car hire relief. To assist Carrier in maintaining a proper record of termination of car hire relief, Trailer Train shall arrange for prompt written notice to Carrier of any car released from a repair facility and available for movement.
- (f) If Carrier orders a car for application of a superstructure or other special device, Carrier shall reimburse Trailer Train the average cost for such movement between all the then existing Trailer Train car supply sources and the fabricator selected by Carrier. In addition, Carrier shall reimburse Trailer Train for actual mileage payments and switching costs from such fabricator to lines of the Carrier to which the car is destined for service or to the point at which such car is loaded, if such be a lesser distance. Carrier shall be relieved of the payment of car hire charges otherwise applicable for the empty movement of a new car from a car builder and to or from a fabricator for application of a superstructure or other special device until such car reaches the lines of the Carrier to which the car is destined for service or to the point at which such car is loaded, whichever occurs first. Car hire relief for cars having superstructures or other special devices affixed at a fabricator shall be limited for each car order to the number of cars equipped times 20 days calculated from date of arrival to date of release from the fabricator.
- (g)
 - (1) If Carrier fails to comply with a Trailer Train CMD, Carrier shall pay to Trailer Train CMR or the IMR per tariff mile applicable to the movement of cars covered by such CMD for disbursement to Carrier's participating in such movement.
 - (2) Trailer Train shall not be liable for any bills for mileage payments or switching allowances for

car movements specified herein unless said bills are presented for payment to Trailer Train within 120-days of the end of the calendar month in which such car movements or switching occur.


ATTEST:



DATE: December 1, 1983


APPROVED:

ATSF

BY: 

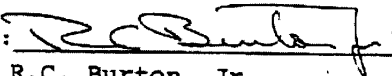
Title: Executive Vice President

ATTEST:


Vice President-General
Counsel and Secretary

DATE: September 26, 1983

TRAILER TRAIN COMPANY

BY: 
R.C. Burton, Jr.

TITLE: President

SUPPLEMENTS NOS. 79 - 98

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 99.

SUPPLEMENT NO. 99

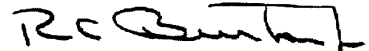
TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT
AMENDING AND SUPERSEDING SUPPLEMENT NO. 83
(Effective December 15, 1985)

Pursuant to action taken by the Board of Directors of Trailer Train Company on December 5, 1985, Supplement No. 83 to the Trailer Train Company Form A Car Contract is hereby amended, effective December 15, 1985, by adding the initials DTTX and RTTX thereto so as to read in full, as follows:

"An additional charge of \$100.00 per car per originated load is established effective December 15, 1985, for the use of DTTX GTTX, KTTX, LTTX, RTTX, STTX, TTX, TTAX, TTCX, TTFX, TTLX, TTUX, TTWX, UTTX, VTTX, WTTX, and XTTX cars for purposes other than transportation of trailers and/or containers unless prior written permission for such use is granted by the Company. Payment of such additional charge shall not relieve Carrier from responsibility for payment of charges for damage to or restoration of such car."

TRAILER TRAIN COMPANY

By:



R. C. Burton, Jr., President
and Chief Executive Officer

DATED: December 6, 1985

SUPPLEMENTS NOS. 100 - 120

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 121.

--- SUPPLEMENT NO. 121 ---

TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT
SUPERSEDING SUPPLEMENT NO. 119
(Effective October 1, 1989)

It is hereby agreed between the signatories hereto that, effective October 1, 1989, Supplement No. 119 to the Form A Car Contract is hereby superseded to provide the following terms and conditions under which Carrier and others having a similar Form A Car Contract with Trailer Train may be relieved from the payment of car hire charges for cars on the lines of Carrier for which Carrier has no current need and has notified Trailer Train in accordance with the following procedures that such cars are no longer in transportation service:

- I Except as otherwise provided below, Carrier shall be relieved of the payment of otherwise applicable car hire charges on cars bearing Trailer Train reporting marks after expiration of five days' notice from Carrier to Trailer Train, under the terms and conditions set forth below:
 - (A) Carrier's notice, if by telephone, must include car initial(s), number(s) and location(s) of those cars for which car hire relief is requested. Such telephone notice must be confirmed in writing and received by Trailer Train's Chief Transportation Officer within seven calendar days, such confirmation containing the car initial(s), number(s), location(s) and date of initial telephone notice, whereupon commencement of the five-day period will begin on the day following initial telephone notice. If written confirmation is not received on or before the seventh calendar day following initial telephone notice, then the five-day period will not begin until the fifth calendar day prior to actual receipt of written confirmation.
 - (B) If written notice, including those via telecommunication devices, is the first advice given Trailer Train of surplus cars, the five-day period will begin on the day such notice is received by Trailer Train's Chief Transportation Officer. Such written notice must contain the car initial(s), number(s) and location(s) of those cars for which car hire relief is requested.

- (C) If at any time during or after the expiration of the five-day notice period Trailer Train has not issued a Car Movement Directive (CMD) and Carrier in possession of the car(s) develops a need for their use, Carrier may use any such car(s) by contacting Trailer Train by telephone and advising the Trailer Train Transportation Department of such use on the day of such use. If a need develops for such car(s) at a time when no one is on duty in the Transportation Department, Carrier can comply with the foregoing by furnishing the required information via telecopier, telex or other communications device on the next working day following the day of such use of the car(s).
- (D) At any time subsequent to Carrier's notice of turnback, Trailer Train shall have the right to direct Carrier, and Carrier shall have the obligation to deliver any car or cars specified in the notice of Carrier to specific connections at specific junction points, or store any such car or cars free of charge to Trailer Train.
- (E) If and when the number of cars, other than those covered by the storage provisions of Supplement No. 122, has become sufficient in the judgment of the Chief Transportation Officer of Trailer Train to so warrant Carrier shall be required to store, as directed by Trailer Train, up to that percentage of the total number of cars subject to storage which is equal to Carrier's percentage of utilization of the total number of cars in the previous calendar year as established by the Trailer Train Company Utilization Statement. Such storage requirement calculations shall be made separately for:
 - 1. Double Stack Cars (DTTX)
 - 2. Lumber Flats (TTPX, TTZX)
 - 3. Chain Tie-Downs (OTX, HTTX, ITTX, TTDX, TTHX)
 - 4. Others (ATTX, JTTX, MTTX, PTTX, ZTTX, TTJX, TTX)

II Carrier shall be relieved of car hire responsibility for cars bearing Trailer Train reporting marks and delivered and assigned to Carrier before October 1, 1989:

- (A) At the time the minimum assignment term expires if such occurs on or after October 1, 1989, or
- (B) No later than April 1, 1990 for assigned intermodal cars, TTJX, TTMX, TTPX and TTZX cars and from October 31, 1989 to April 1, 1990 for all other assigned cars, if the minimum assignment term had expired prior to October 1, 1989.

(C) Upon completion of assignments as specified in Paragraphs II (A) and (B) above such cars become subject to the car hire relief procedures in Paragraph I herein.

III Carrier shall not be eligible for car hire relief under the provisions of this Supplement unless and until any racks or other equipment or special devices or securement, not owned by Trailer Train, shall have been removed from the car and the car has either been restored to its original condition*, less reasonable wear and tear, or Carrier has made arrangements reasonably satisfactory to Trailer Train to reimburse Trailer Train for the cost of restoring the car to such condition.

* "Original condition" as used herein shall include removal of all equipment, racks, securement or other devices, except chains and associated tie-down equipment owned by Trailer Train and originally furnished as part of the car.

APPROVED:

The Atchison, Topeka & Santa Fe Railway Co.
(Carrier)

ATTEST:

B. B. Lancaster

DATE: October 19, 1989

ATTEST:

C. J. [Signature]

DATE: SEPTEMBER 28, 1989

By:

[Signature]

Title: President & COO

TRAILER TRAIN COMPANY

By:

[Signature]

Title: President & Chief Executive Officer

SUPPLEMENTS NOS. 122 - 127

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 128.

SUPPLEMENT NO. 128

TO TRAILER TRAIN COMPANY FORM A CAR CONTRACT
(Effective May 1, 1991)

It is hereby agreed between the signatories hereto that the Form A Car Contract between Carrier and Trailer Train is amended and supplemented to provide the procedures relating to the operation of the Trailer Train Heavy Duty Flatcar Fleet (QTTX). These cars will carry the AAR mechanical designation of FM and FD.

REPORTING REQUIREMENTS

Carrier will furnish abbreviated waybill information showing origin, final destination and routing as a minimum to allow the effective control of subject cars.

Carriers requesting cars will order cars from Trailer Train Distribution Services and furnish the following information:

1. Type of car needed: FD and FM
2. Date of shipment.
3. Weight, length, width and height of shipment.
4. Capacity of car requested.
5. Maximum permissible length of loading platform above the top of rail.
6. Shipper and Consignee.
7. Origin and Destination.
8. Complete routing.

Carrier agrees to furnish Trailer Train a Loading/Unloading Report on the cars subject to this agreement within five (5) days of the occurrence. Data listed below will be required:

LOADING REPORT (Origin Carrier)

1. Car initial and number
2. Date car arrived loading station or constructive placement at point short of loading station
3. Date and time placed for loading (actual or constructive)
4. Date and time released by shipper
5. Waybill date and number
6. Name of shipper
7. Origin
8. Consignee
9. Destination
10. Complete routing, including carrier placing car for unloading if such carrier is a switch carrier.

UNLOADING REPORT (Destination Carrier)

1. Date car arrived at unloading station or constructive placement at point short of loading station
2. Date and time placed for unloading (actual or constructive)
3. Date and time released by consignee

The carrier requesting the car shall furnish Trailer Train Company a Loading Report if the cars are given to non-participants to be loaded. The last delivering participant carrier will be responsible for furnishing the Unloading Report if car is unloaded by a non-participant.

In lieu of these reports carriers' TRAIN records may be used; these records relate to the arrival, placement and release of cars.

CHARGES

CAR HIRE

For each car owned by or under lease to Trailer Train on lines operated by Carrier, Carrier shall pay Trailer Train a car hire and mileage charge as specified in Supplement 129, or any subsequent supplements. Carrier agrees that if it is the originating roadhaul carrier of a load in these cars and any portion of the roadhaul route or the destination of such car is over or upon the lines of a carrier or carriers not party to this agreement, Carrier shall be responsible for any deficiency that may arise in payment of the aforementioned charges while car is off the lines of parties to this agreement.

OTHER CHARGES

The use charge is applied to the loading carrier. The detention charges are applied at origin and destination and are the responsibility of the origin and destination carrier. If the origin or destination carrier is a non-participant, these charges will be the responsibility of the originating roadhaul carrier.

Detention charges will start 24 hours after car is placed for loading (origin) and 48 hours after car is placed for unloading (destination). These times will be furnished Trailer Train in the aforementioned Loading/Unloading Reports.

When subject cars are ordered by carrier and movement directives issued by Trailer Train, a cancellation charge will be applied for cancelled orders. Additionally, this cancellation charge will be applicable to cars placed and released without being used, along with any applicable detention charges, unless the cancellation was necessitated by a defect in the car.

BILLING PROCEDURES

All billing for use detention and cancellation charges will be done on a monthly basis and will include all charges which are identified as to having occurred between the first and last working day of the month. These bills will be issued on the last working day of the month and will be payable by the carrier in the next Car Hire Report. Supporting documentation will be included with the bill and may consist of loading/unloading reports furnished by the origin/destination carriers or other records reported by the carriers.

CAR DISTRIBUTION AND MOVEMENT PROCEDURES

Subject cars will be controlled by Trailer Train's Distribution Services Department. Because of the limited size of this fleet, car orders will be filled based on a combination of criteria:

1. Location and availability of car.
2. Time cars needed.
3. Time order placed.

Destination carrier agrees to be responsible for costs incurred to remove any dunnage or blocking that was not removed by the consignee. Origin and destination carrier will be governed by compliance with the "General Rules Governing Loading of Commodities on Open Type Cars."

CHARGES PAID ON EMPTY MOVEMENTS

All empty movements will be made by directives issued by Trailer Train. Cars being distributed for next loading will be moved at no cost to Trailer Train on carrier originating the empty car (or in case of non-participant the delivering carrier) and will be moved at no cost to Trailer Train on the carrier requesting the car. Trailer Train will make attempts to move empties across carriers that participate in the loaded movement of the cars. If the use of intermediate carriers is necessary, intermediate carriers will be paid the incremental mileage rate. The IMR shall be carrier's car hire cost per tariff mile for use of Trailer Train equipment calculated by dividing total car hire charges reported by carrier by total mileage reported by carrier for the use of the Heavy Duty Fleet.

In addition, it will be the responsibility of the terminating participant carrier to store surplus cars free of charge to Trailer Train. Car hire will stop upon notification that car is surplus to the destination carrier (Unloading Report). When cars are moved from storage to service, or from storage on one carrier to storage on another carrier, they will move on directives that will pay incremental mileage to the intermediate carriers only.

At times it will be necessary to move subject cars to Trailer Train inspection points that will be on or close to the car's route to the next loading location. This would be for an inspection to assure car is suitable for next load and all dunnage has been removed from previous loadings. Cars in this case will be moving under normal movement directives. Car hire relief will be granted from time of arrival at the inspection point to 24 hours after car is released from the inspection point. All attempts will be made to inspect cars prior to placing a car in storage.

ATTEST:

Clair J. Jones

DATE: APRIL 10, 1991

ATTEST:

James T. L.

DATE: March 20, 1991

APPROVED:

The Atchison, Topeka and Santa Fe Ry. Co.

(Carrier)

BY: *Robert H. Hensley*
President and Chief

TITLE: Operating Officer

TRAILER TRAIN COMPANY

BY: *RC Buntch*

TITLE: PRESIDENT

SUPPLEMENTS NOS. 129 - 145

HAVE BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 146.

SUPPLEMENT NO. 146
TO TTX COMPANY FORM A CAR CONTRACT
EFFECTIVE OCTOBER 1, 1994

It is hereby agreed between the signatories hereto that the Form A Car Contract between Carrier and TTX Company is amended and supplemented to include the following provisions:

1. Definitions.

For purposes of this supplement, the following terms shall have the definitions set forth below:

(a) "New Technology Assignment" shall mean Carrier's obligation, for a period of three (3) years, to pay applicable car hire charges with respect to a New Technology Car to the extent that such charges are not paid by others during said term.

(b) "New Technology Car" shall mean a car which incorporates one or more patented or non-patented features, accessories, or manufacturing processes which are not incorporated in more than one percent (1%) of the cars or, with respect to intermodal cars, one percent (1%) of Platforms (as defined in Supplement 126) included in TTX's fleet.



2. Operations.

If Carrier has an interest in one or more New Technology Cars, it may seek to enter into a New Technology Assignment by delivering to TTX a request on a form to be provided by TTX. If TTX determines to enter into a New Technology Assignment, verifies that the subject cars conform to the definition of New Technology Cars, and obtains any authority necessary from its Board of Directors to acquire, modify, or finance the subject cars, TTX may execute the form and direct the movement of such New Technology Cars to Carrier at the earliest practicable date. TTX shall have no prior obligation to qualify New Technology Cars for interchange. Upon delivery, Carrier's New Technology Assignment obligation shall commence with respect to that car. During the term of its obligation, Carrier shall have the principal right, upon request, to the use and redistribution of the New Technology Car.

3. Effective Date.

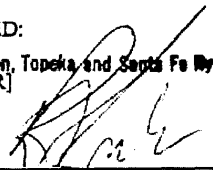
This Supplement shall become effective on October 1, 1994.

ATTEST:


FIRM APPROVED 
General Attorney

APPROVED:

The Atchison, Topeka and Santa Fe Ry. Co.
[CARRIER]

By: 
Chairman, President and
Its: Chief Executive Officer

ATTEST:

W. F. J. J. J.

TTX COMPANY

By: R. C. Buntan

Its: President

SUPPLEMENT NO. 147
TO TTX COMPANY FORM A CAR CONTRACT
EFFECTIVE OCTOBER 1, 1994

As approved and authorized by the Interstate Commerce Commission in a Decision served August 31, 1994 in Finance Docket No. 27590 (Sub-No. 2) and pursuant to action taken by the Board of Directors of TTX Company on September 29, 1994, Paragraph 21 of the Form A Car Contract is hereby amended in its entirety to read as follows:

21. This agreement shall take effect as of the day and year first above written and shall inure to the benefit of and be binding upon each of the parties hereto, their respective successors, lessees and assigns, for the period of ten (10) years from and after October 1, 1994.

APPROVED:

The Atchison, Topeka and Santa Fe Ry. Co.
(Carrier)

ATTEST:

[Signature]

DATE: 10/16/94

By: [Signature]
Chairman, President and
Title: Chief Executive Officer

ATTEST:

[Signature]

DATE: 9/29/94

TTX COMPANY

By: [Signature]
Title: President and Chief
Executive Officer

SUPPLEMENTS NOS. 148 - 153

HAVE BEEN SUPERSEDED

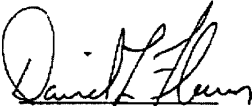
The next supplement reproduced herein is

Supplement No. 154.

SUPPLEMENT NO. 154 to the
TTX COMPANY FORM A CAR CONTRACT

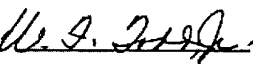
Pursuant to action taken by the Board of Directors on March 14, 1997, Supplement No. 121 is modified by the addition of the following paragraph:

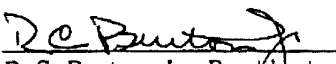
I (F) With respect to cars equipped with automobile racks owned by the Company, Carrier shall be relieved of otherwise applicable car hire charges after the expiration of fifteen days' notice.

Attest: 
Date: APRIL 4, 1997

Approved:

Carrier: BNSF
By: DAVID FLEENOR
Title: GENERAL DIRECTOR

Attest: 
Date: MARCH 19, 1997

TTX COMPANY
By: 
R. C. Burton, Jr., President
and Chief Executive Officer

March 5, 1997

SUPPLEMENTS NOS. 155 - 169
HAVE EXPIRED OR BEEN SUPERSEDED

The next supplement reproduced herein is

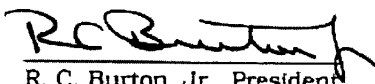
Supplement No. 170.

SUPPLEMENT NO. 170 to the
TTX COMPANY FORM A CAR CONTRACT
(Effective: May 1, 1999)

Pursuant to action taken by the Board of Directors on March 19, 1999, Supplement No. 168, (including Exhibit A attached thereto) setting forth car hire charges and mileage rates for use of the Company's cars is hereby amended by the addition of the following car type:

<u>Initial</u>	<u>Length</u>	<u>Rate Per Hour</u>	<u>Description</u>
JTTX	89' 4"	\$1.16	110-Ton Flatcar, General Service

TTX COMPANY

By: 
R. C. Burton, Jr., President
and Chief Executive Officer

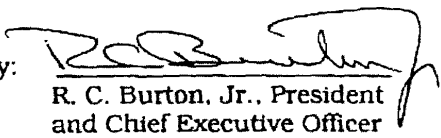
March 10, 1999

SUPPLEMENT NO. 171 to the
TTX COMPANY FORM A CAR CONTRACT

Pursuant to action taken by the Board of Directors on July 22, 1999, car hire and other charges for the use of the Company's cars carrying the reporting mark **QTTX** shall be in effect as of September 1, 1999, as set forth on the attached Exhibit A made a part of this Supplement.

TTX COMPANY

By:


R. C. Burton, Jr., President
and Chief Executive Officer

July 22, 1999

**Car Hire and Other Charges for
GTTX Equipment Pursuant to Supplement No. 171
Effective September 1, 1992**

[illegible]

RETURN TO TTX

**SUPPLEMENT NO. 172
TO TTX COMPANY FORM A CAR CONTRACT
SUPERSEDING SUPPLEMENT NO. 137
(EFFECTIVE JANUARY 1, 2000)**

In order to achieve more efficient and expeditious settlements of car hire, the signatories hereto agree that, effective with the service month of January 2000, Supplement No. 137 to the Form A Car Contract is superseded, and said Contract is hereby amended for procedures relating to 100% billing, car hire claims and settlements as follows:

1. TTX Company ("TTX") will forward a bill thirty (30) days following the end of a service month to the Carrier, showing Carrier's liability for car hire as established by TTX's records and industry LCS records.
 - a) Charges for mileage will be forwarded to TTX by Carrier by the 35th day following the end of the service month.
 - b) The combination of TTX's computed car hire and the Carrier's mileage reporting will represent Carrier's liability for the service month.
 - c) The bill for the Carrier's liability will be payable and carrier agrees to pay by sight draft forty (40) days after the close of the service month. Failure to pay the sight draft will result in Carrier being charged interest on the amount of the sight draft commencing ten (10) days after presentation until such time as the bill is paid. The interest rate to be paid will be the interest rate reported on the first of each month (and adjusted monthly) on one month's Certificates of Deposit issued by major banks for amounts of one million dollars or more as reported in the Wall Street Journal, or any similar successor publication.
 - d) Each voluntary mileage allowance reported by Carrier subsequent to the month in which it was earned shall be payable in the month in which it is reported.
2. To assist Carrier in the verification of the car hire amounts billed, TTX will make available all information and technology (to the extent permitted by law) which was used in the determination of Carrier's car hire liability.
3. Following settlement, both the Carrier and TTX relinquish any further claims against each other for car hire with respect to the service month in question, except for:
 - a) Those items which may be the result of a contract compliance audit by TTX under other provisions of the Form A Car Contract.
 - b) Car hire discrepancy claims, which are claims that have been issued to railroads not signatory to the Form A Car Contract and are returned declining responsibility, shall be forwarded to the Carrier responsible

therefore and handled in accordance with paragraph 4, below.

4. A Carrier receiving a Reissued Claim (Paragraph 3b above) from the Company must, within two months of the last day of the two month period, do one of the following:
 - a) Acknowledge responsibility for all reissued car hire claimed in the next car hire report, or
 - b) Acknowledge responsibility for part of the amount claimed in the next car hire report, and disprove further responsibility with non-LCS records and return the claim to the Company, or
 - c) Disprove any responsibility with non-LCS records, and return the claim to the Company.
5. All claims presented by the Company to Carriers in accordance with this Amendment which are not handled by Carriers pursuant to the terms of Paragraph 4 shall become due and payable.
6. Car movement record additions, changes and deletions by Carrier or TTX affecting a month's liability may not be made subsequent to the twenty-fifth (25th) day after the service month has ended (i.e., the January 2000 movement records can be updated through February 25, 2000.)
7. The company shall perform audits on a periodic basis on each Carrier's car hire billing and mileage reporting to ensure accuracy and completeness of TTX's billing and Carrier reportings. TTX shall employ standard sampling techniques recommended by TTX's Car Accounting Advisory Committee ("CAAC"), or any successor committee. The signatories agree that these techniques shall be those which are generally accepted within the railroad industry, and further agree that TTX may change these techniques to conform to changes which may be recommended by CAAC from time to time.
8. This Supplement will not apply to settlement of claims under the Form D Special Services Contract between the signatories.

APPROVED:

Burlington Northern Santa Fe
(Carrier)

ATTEST:

M. H. Morgan
Date: 11-5-99

By: C. Z. Schultz
Title: Executive Vice President and
Chief Marketing Officer

ATTEST:

William F. Todd
Date: October 18, 1999

TTX COMPANY

By: R. C. Burton Jr.
Title: President

**SUPPLEMENT NO. 173
HAS EXPIRED OR BEEN SUPERSEDED**

The next supplement reproduced herein is

Supplement No. 174.

SUPPLEMENT NO. 174
TO TTX COMPANY FORM A CAR CONTRACT

(Effective: June 1, 2000)

Pursuant to action taken by the Board of Directors on May 25, 2000, Supplement No. 129, setting forth the hourly car hire charges, mileage rates, and other charges for the use of the company's heavy-duty flatcars (reporting mark QTTX), is hereby amended, effective June 1, 2000, by the addition of:

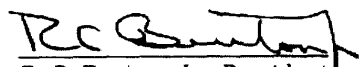
CAR HIRE AND OTHER CHARGES
HEAVY-DUTY FLATCARS

<u>Basic Charges</u>		<u>32'FD 342-Ton</u>
Car Hire:		
Per Hour Charge		<u>\$ 8.35</u>
<u>Mileage Charges</u>		
Rate Per Mile		<u>\$.38</u>
<u>Special Charges</u>		
Use Charge:		
Per Load		<u>\$ 7.200</u>
Detention Charge*		
(After 48 hour free time period)		
<u>Per Day</u>		
Day 1 & 2	\$	325.00
Day 3 & 4	\$	650.00
Day 5	\$	975.00
Day 6 & Over	\$	1,300.00
* Excludes weekends and holidays unless preceded by a chargeable day		
Cancellation Charge:	\$	<u>500.00</u>

In all other respects, Supplement No. 129, as amended remains in full force and effect.

TTX COMPANY

By:


R. C. Burton, Jr., President
and Chief Executive Officer

SUPPLEMENT NO. 175

TO TTX COMPANY FORM A CAR CONTRACT
SUPERSEDING SUPPLEMENT NO. 169
(Effective August 1, 2000)

It is hereby agreed between the signatories hereto that, effective as of August 1, 2000, Supplement No. 169 to the Form A Car Contract is superseded and said Contract is hereby amended to provide the following terms and conditions with respect to the redistribution of intermodal cars bearing the prefixes shown below under "Platform", owned by or under lease to TTX Company.

For the purpose of this Supplement, the following terms shall be defined as indicated:

"Car Movement Directive" (CMD) - A written instruction which shall contain all of the information of the DI, listing each Car by initial and number.

"Carrier" - Any railroad signatory to the TTX Form A Car Contract, as supplemented.

"Carrier Performance Index" (CPI) - Carrier's LPM (Loads-Per-Platform-Per-Month, as defined herein) for the current month divided by its total LPM over the previous three months.

"Deficit Carrier" - A Carrier shown to be below its Platforms-on-line requirement as computed in Paragraph II-2 below, or below its proportionate share of serviceable Platforms-on-line as computed in Paragraph IV-2 below.

"Disposition Instruction" (DI) - The initial written instruction of the number of Platforms (as defined herein) to be moved, the date/time of such instructions, and routing and destination instructions.

"Extended Performance Index" (EPI) - Carrier's CPI for the current month divided by the NPI (National Performance Index, as defined herein) for the current month.

"EPI Adjustment" (Adjustment) - The actions which will be taken by TTX to bring the EPI of a Sub-Index Carrier (as defined herein) back to the levels prescribed in paragraph IV-5 a through f, herein.

"Excess Carrier" - A Carrier shown to be above its Platforms-on-line requirement as computed in Paragraph II-2 below, or above its proportionate share of serviceable Platforms-on-line as computed in Paragraph IV-2 below.

"Intermediate Carrier" - A Carrier selected by TTX Company, in accordance with the provisions of Paragraph V below, for the movement of Cars between Carriers.

"Last Voluntary Date" - The last date that a serviceable Platform can be delivered in response to a DI or CMD and still be in compliance with the time requirements of this Supplement.

"Loads-Per-Platform-Per-Month" (LPM) - Monthly revenue trailer and container loads divided by the daily average of all intermodal Platforms-on-line for the month.

"National Performance Index" (NPI) - Total LPM for all Carriers for the current month divided by the total LPM for all Carriers over the previous three months.

"Non-Surplus Carrier" - A Carrier having no surplus or stored Cars on its line.

"Sub-Index Carrier" - A Carrier whose EPI has fallen below .95 in each of two consecutive non-surplus months (zero surplus or stored cars for the month) or below .90 in any one non-surplus month, as provided in paragraph IV-5 herein.

"Surplus" or "Stored" Cars - Cars properly declared surplus and subject to storage pursuant to the Form A Car Contract, as supplemented, by Carriers who are signatories thereto.

"Surplus Carrier" - A Carrier having surplus or stored Cars on its line.

"Platform" - An intermodal Car, or portion of such Car, capable of carrying one trailer or container at least forty (40) feet long, or two containers at least twenty (20) feet long. For the purpose of this Supplement, the number of Platforms per Car shall be calculated as follows:

<u>INITIAL</u>	<u>LENGTH</u>	<u>PLAT- FORMS</u>	<u>INITIAL</u>	<u>LENGTH</u>	<u>PLAT- FORMS</u>
TTX	85' - 89'4"	2	TTEX	182'9"	4
ATTX	60'	1.5	TTEX	185'5"- 187'5"	3
DTTX	Any	2 per well	TTLX	89'4"	2
KTTX	89'4"	2	TTLX	260'	5
LTTX	89'	2	TTOX	50'6"	1
NTTX	249'	5	TTRX	189'2"	3
RTTX	89'4"	2	TTWX	89'4"	2
RTTX	185'5"	4	UTTX	260'	5
TTAX	264'8"- 290'8"	5	VTTX	60'	1.5
TTAX	177'8"	3	VTTX	85' - 89'	2
TCX	60'	1.5	WTTX	89'4"	2
TTCX	89'4"	2			

I UTILIZATION CALCULATION:

1. A Carrier's "Utilization Calculation" shall be equal to Carrier's percentage of utilization of the total number of Platforms by all signatories to this agreement, adjusted as provided by paragraph I-2 below, in the most current 3 months of revenue Platforms-on-line data as established by TRAIN II reportings of Intermodal Cars bearing the prefixes listed above under "Platform." The most recent month will be weighted by a factor of three (3), the first prior month weighted by a factor of two (2), and the second prior month weighted by a factor of one (1). Two separate Utilization Calculations shall be made for each Carrier: the first with respect to Platforms of D'TTX Cars, and the second with respect to Platforms of all other types of Intermodal Cars (hereinafter "Conventional") listed above under the definition of "Platform."

2. The monthly paid Platform days used to calculate each Carrier's percentage of utilization shall be adjusted upward by seven days for each platform directed to a Deficit or Non-Surplus Carrier during the month and downward by seven days for each of the corresponding number of Platforms directed away from an Excess or Surplus Carrier during the month. Further, the paid Platform days of each ordering Deficit or Non-Surplus Carrier shall be adjusted upward, and the paid Platform days of each delivering Excess or Surplus Carrier shall be adjusted downward, by one additional day per Platform, for each day that Deficit or Non-Surplus Carrier must wait to receive cars from Excess or Surplus Carrier, calculated by subtracting the date of the DI from the date that platforms are actually delivered. The adjustment for any cars not delivered as directed shall be seventeen (17) days per platform.
3. Once each week, TTX Company shall use the most current Utilization Calculation as the basis to notify Carrier of: (1) its percentage of utilization, and, (2) during periods of surplus, its current Platforms-on-line requirement or, during periods of shortage, its proportionate share or entitlement, for both DTTX and Conventional Platforms.

II RELOCATION OF PLATFORMS TO STORAGE:

1. Carrier shall be required during periods of surplus, with respect to either DTTX or Conventional Platforms (or both), to have on its railroad any combination of Platforms in service and in storage as determined by Carrier's current Utilization Calculation for each type of equipment which is surplus or stored.
2. During such periods of surplus, in addition to the information identified in Paragraph I-3 above, TTX Company will notify Carrier, weekly, of the average number of Platforms in service and in storage, adjusted as indicated below, actually on Carrier's lines over the five (5) most recent business days for which Platforms-on-line data is available and the number of Platforms shown to be in excess of, or deficit of Carrier's requirement. For purposes of this calculation, Carrier's average Platforms-on-line will be adjusted upward by one Platform for each Platform not yet received on active Disposition Instructions (DI's) and adjusted downward by one platform for each Platform not yet delivered on active DI's.
3. Any Carrier notified, in writing, that it is above its adjusted Platforms-on-line requirement, as computed in Paragraphs I-3 and II-2 above, which does not request disposition within 48 hours* for such excess Platforms, thereby waives its right to future DI for that number of excess Platforms until such Carrier's adjusted Platforms-on-line again become equal to or less than its requirement, except that if a Carrier is above its adjusted Platforms-on-line requirement by reason of bad order Cars stored at the request and for the convenience of TTX Company, the number of Platforms represented by such excess stored bad order cars shall not be counted against Carrier in determining the number of Platforms waived under this paragraph.
4. Any Excess Carrier may request TTX Company, in writing, to provide DI for excess serviceable Platforms to a Deficit Carrier. Within 48 hours* of receipt of such written request, TTX Company must provide, in writing, DI for such Platforms. In the event

that TTX Company fails to provide Excess Carrier with written DI for serviceable Surplus or Stored Platforms, and that failure causes Carrier to continue to have on line such Platforms in excess of its requirement as calculated herein, Excess Carrier may invoice TTX Company's Intermodal Distribution Services Department monthly in an amount specified from time to time by TTX Company's Board of Directors for each serviceable Platform for which disposition was requested and not furnished as provided herein.

5. Upon receipt of DI specified above, Excess Carrier may within 48 hours** elect to advise TTX Company in writing that it is:
 - a. Withdrawing its request and will continue to have on line such excess Platforms, thereby waiving its right to receive payment of charges as specified in Paragraph II-4 above and its right to future DI for that number of such excess serviceable Platforms until such Excess Carrier's adjusted Platforms- on-line again becomes equal to or less than its requirement;

OR

- b. Delivering empty serviceable platforms, advising TTX Company, by the fastest means available, the Car initials and numbers of such platforms and a CMD will be issued to cover such movement. Cars moving in this status must be delivered within 240 hours of effective date/time of DI and shall remain car hire free through interchange to the Deficit Carrier (unless DI is filled with cars not previously declared surplus or stored) at the interchange point specified by the Deficit Carrier or to an Intermediate Carrier at an interchange point selected by TTX Company pursuant to Paragraph V below. No IMR (Incremental Mileage Rate as defined in Supplement No. 78 or any successor Supplement) or other payments shall be due Excess or Deficit Carrier for such movement. Payment of IMR to Intermediate Carrier shall be as provided in Paragraph V below. All CMD's issued under this paragraph shall expire at the end of the 240-hour period referenced above.

III RELOCATION OF SURPLUS AND STORED PLATFORMS TO SERVICE:

Any Non-Surplus Carrier may request, in writing, that TTX relocate Surplus or Stored Platforms to it from a Surplus Carrier. Within 48 hours* of receipt of such request, TTX Company shall issue a DI to a Surplus Carrier. Surplus Carrier receiving such DI:

1. Shall deliver empty serviceable Platforms presently in storage advising TTX Company, by the fastest means available, the Car initials and numbers of such Platforms and a CMD will be issued to cover such movement. Such Cars must be delivered within 240 hours of effective date/time of CMD to requesting Non-Surplus Carrier at any interchange point, or to an Intermediate Carrier at an interchange point selected by TTX Company pursuant to Paragraph V below. Cars moving in this status shall go back on car hire on the effective date/time of CMD. TTX Company's IMR payment, subject to a minimum of 150 miles per Car shall be due Surplus Carrier for this movement. Payment of IMR to Intermediate Carrier shall be as provided in Paragraph V below;

OR

2. Shall deliver empty serviceable Platforms other than Stored Platforms advising TTX Company, by the fastest means available, the Car initials and numbers of such Platforms and a CMD will be issued to cover such movement. Such Cars must be delivered within 240 hours of effective date/time of CMD to requesting Non-Surplus Carrier at any interchange point, or to an Intermediate Carrier at an interchange point selected by TTX Company pursuant to Paragraph V below. Cars moving in this status shall remain on car hire through interchange to the Non-Surplus Carrier. No IMR or other payments shall be due Carrier for such movements, except that payment of IMR to Intermediate Carrier shall be as provided in Paragraph V below;

OR

3. Must, within 24 hours** of the effective date/time of such DI, notify the Director - Intermodal Distribution Services of TTX Company, in writing, that such DI is not acceptable and that all serviceable Cars presently surplus or stored on such Surplus Carrier's lines were returned to car hire status effective with the date/time of DI.

IV REDISTRIBUTION OF NON-SURPLUS PLATFORMS:

1. Carrier shall be entitled, during non-surplus periods, to have on its railroad its proportionate share of serviceable Platforms as determined by Carrier's current Utilization Calculation for each type of equipment, either DTTX or Conventional.
2. During such non-surplus periods, in addition to the information identified in Paragraph I-3 above, TTX Company will notify Carrier weekly of:
 - a. The average number of serviceable Platforms actually on Carrier's lines, adjusted as indicated below, over the five (5) most recent business days for which Platforms-on-line data is available, less any new Platforms directed to Carrier during the previous eight week period. Carrier's average Platforms-on-line will further be adjusted upward by one Platform for each Platform not yet received on active Disposition Instructions (DI's) and adjusted downward by one platform for each Platform not yet delivered on active DI's.

AND

- b. The number of serviceable Platforms shown to be in excess of, or deficit of Carriers proportionate share, adjusted by the percentage of platforms sitting idle fifteen or more days on lines of Carrier as compared to the percentage of serviceable platforms sitting idle fifteen or more days on lines of all Carriers as follows:

- (1) Carrier's proportionate share shall be increased by the percentage of serviceable platforms on its lines sitting idle fifteen or more days which is less than the average percentage of serviceable platforms sitting idle fifteen or more days on lines of all Carriers;

OR

- (2) Carrier's proportionate share shall be decreased by the percentage of serviceable platforms on its lines sitting idle fifteen or more days which is more than the average percentage of serviceable platforms sitting idle fifteen or more days on lines of all Carriers.

AND

- c. Carrier's Extended Performance Index (EPI) for the previous month.
3. Within 48 hours** of receipt of information set forth in Paragraphs I-3 and IV-2 above, any Deficit Carrier may request TTX Company, in writing, to relocate serviceable Platforms to it. Within 48 hours* of receipt of such written request, TTX Company must issue DI, in writing, to an Excess Carrier to furnish serviceable Platforms to the Deficit Carrier as provided herein.
4. In the event that Deficit Carriers fail to order all of the excess capacity to which they are entitled, hereinafter "Unclaimed Excess," such Unclaimed Excess will be disposed of as follows:
 - a. Excess Carriers, and those Deficit Carriers that ordered their full entitlement, will be given the opportunity to receive a "Secondary Entitlement" of up to their "Equitable Share" of the Unclaimed Excess.
 - b. "Equitable Share" shall mean that portion of the capacity redistributed from the "unclaimed excess" which results in each carrier participating in such redistribution being over its original entitlement by an approximately equal percentage.
 - c. DI's and CMD's covering the redistribution of Unclaimed Excess capacity shall be governed by all of the provisions of this Supplement, including penalty provisions, which apply to DI's and CMD's covering the movement of excess capacity from Excess Carriers to Deficit Carriers.
5. If any Carrier's EPI falls below .95 in each of two consecutive non-surplus months (zero surplus or stored cars for the month) or below .90 in any one non-surplus month, such Carrier shall be classified as a Sub-Index Carrier and subject to the following actions. TTX's Director of Intermodal Distribution Services will first contact Sub-Index Carrier to ascertain that there are no extenuating circumstances causing the reported facts to be materially misleading, including such events as strikes, floods, impassable track and other Acts of God beyond Sub-Index Carrier's control. If there appear to be no such extenuating circumstances, the Director of Intermodal Distribution Services will call an in-person or telephonic meeting of all

members of the TTX Intermodal Advisory Committee (IAC) at which time all pertinent facts will be presented. If a majority of the IAC members concur, the following actions will be implemented in the form of an EPI Adjustment, and will remain in effect until; a) such Sub-Index Carrier's EPI reaches at least .95 for each of two consecutive months, or b) such Sub-Index Carrier's EPI reaches at least 1.00 for one month, or c) the non-surplus period ends:

- a. The delivery of new cars to Sub-Index Carrier, if any were scheduled, will immediately cease.
 - b. Any outstanding DI's and CMD's, directing cars to Sub-Index Carrier, will be canceled and that capacity redirected to entitled carriers that are not subject to an EPI Adjustment.
 - c. Adjustment DI's will be issued, not to exceed 5% per week of Sub-Index Carrier's Platforms-On-Line for the type of Platform being directed, with the intention of reducing Sub-Index Carrier's Platforms-On-Line to improve its EPI to at least .95. Such Adjustment DI's will be reduced by the number of Platforms still outstanding on active DI's or CMD's issued to Sub-Index Carrier, directing Platforms away from Sub-Index Carrier, prior to initiation of the EPI Adjustment.
 - d. All intermodal Platforms, of the type being directed, will be counted toward fulfillment of Adjustment DI's issued to bring Sub-Index Carrier back to the levels of performance prescribed herein.
 - e. For purposes of calculating entitlement, Sub-Index Carrier's Percent of Utilization will be allowed to go no higher than it was during the month in which its EPI first fell below the levels prescribed in paragraph IV-5 above, and will remain at or below that level until its EPI returns to at least .95 for each of two consecutive months, or to 1.00 for one month, or the non-surplus period ends, as provided above.
 - f. Platforms directed away from Sub-Index Carrier, on Adjustment DI's, shall be subject to all of the penalty provisions of paragraph VI, just as though such Carrier were an Excess Carrier, regardless of whether such Carrier is actually an Excess or Deficit Carrier as defined herein.
6. Upon receipt of DI from TTX Company, Excess or Sub-Index Carrier must deliver such empty serviceable Platforms advising TTX Company by the fastest means available the Car initials and numbers of such Platforms to be delivered and a CMD will be issued to cover such movement. Such Cars must be delivered within 240 hours of effective date/time of CMD to Deficit Carrier at any interchange point, or to an Intermediate Carrier at an interchange point selected by TTX Company pursuant to Paragraph V below. Cars moving in this status shall remain on car hire and no IMR or other payments shall be due Excess, Sub-Index or Deficit Carrier for such movement. Payment of IMR to Intermediate Carrier shall be as provided in Paragraph V below.

7. Carrier and TTX Company recognize that their interests, as well as the interests of the shipping public, are best served by the efficient utilization of the intermodal fleet. Accordingly, and notwithstanding the foregoing provisions, Carrier and TTX agree to use their best efforts to effect the prompt redistribution of Non-Surplus intermodal Platforms whenever such redistribution is warranted by rapid changes in market conditions or traffic flows resulting in sudden shifts in equipment demand among Carriers.

V USE OF INTERMEDIATE CARRIER:

In the event no direct connection exists between certain Carriers, and TTX Company must issue a CMD which requires use of an Intermediate Carrier, and in order to comply with the above, such Intermediate Carrier and interchange points shall be selected on the basis of the net interchange flow reported to TRAIN II of loaded and empty Cars between such Intermediate Carrier and its connecting Carriers. Within 168 hours of receipt of Cars moving on CMD, such Intermediate Carrier must deliver Cars to the interchange point with specified connecting Carrier. Intermediate Carrier may retain such Cars moving under CMD providing such Intermediate Carrier substitutes a like number of similar Platforms, notifying TTX Company of the Car initials and numbers of such substituted Platforms and delivers them as directed, within 168 hours of receipt of such directed Cars. Intermediate Carrier shall be responsible for the payment of car hire for Cars so directed and TTX Company shall pay Intermediate Carrier the IMR for such movement subject to a minimum of 75 miles per platform. If Intermediate Carrier retains Platforms moving on a CMD and substitutes others as provided, no IMR shall be due Intermediate Carrier for either the directed or substituted Cars.

VI FAILURE TO COMPLY WITH A DI OR CMD:

1. Carrier shall accept, forward, receive, and move in interchange, free of any charge to TTX Company or others executing this Supplement, all Cars being relocated in accordance with a DI or CMD issued by TTX Company's Director - Intermodal Distribution Services. Except as otherwise provided herein, Carrier's failure to comply with any DI or CMD shall result in Carrier's payment of TTX Company's invoice, upon receipt, of a charge per Platform of an amount specified, from time to time, by the Board of Directors ("Base Amount") for noncompliance as follows:
 - a. Deficit or Non-Surplus Carrier may request TTX Company to issue a penalty bill for such failure. Such request must be made, in writing, by the third business day following the Last Voluntary Date of the DI.
 - b. The penalty amount, per Platform, will be as follows, where "X" = the Base Amount in effect on the Last Voluntary Date of the DI:

Percent of Platforms Delivered in Compliance With DI	Penalty Per Platform For Each Platform Not Delivered
70% - 99%	X
35% - 69.9%	2X
Under 35%	3X

2. Failure which is the result of properly documented strikes, floods, impassable track and other Acts of God, which cannot be controlled by Carrier, or failure of an Excess Carrier to comply with any DI or CMD issued in accordance with Paragraph II (5) (b) of this Supplement, will be exempt from the penalty provisions of paragraph VI - 1 - a & b above.
3. Carrier may retain Platforms moving under any CMD under this Supplement, providing Carrier substitutes a like number of similar Platforms notifying TTX Company of the Car initials and numbers of such substituted Platforms and delivers them as directed within the time limit specified.
4. If requested by TTX Company, Carrier shall, by the fastest means available, and not later than the first working day of the ensuing week, furnish TTX Company with evidence of compliance with any DI or CMD issued, including Car initial and number, interchange date, and time and place of Cars so delivered. Failure to provide such information within the time specified shall be a failure to comply with the DI or CMD.
5. If a Deficit Carrier refuses to accept, in interchange, serviceable Platforms it ordered from an Excess Carrier, and which are moving in response to a DI or CMD issued by TTX Company as provided by Paragraph III-1 or 2, or Paragraph IV-6, Excess Carrier's intermodal car management group will contact Deficit Carrier's car management group to try to work out a solution. If the Deficit Carrier cannot accept the Platforms in a reasonable period of time or agrees to accept the Platforms and then refuses them a second time, the DI/CMD, and the Excess Carrier's obligation, will be reduced by the number and type of Platforms so refused.

VII COLLECTION OF CHARGES AND ARBITRATION:

1. Charges collected by TTX Company under the provisions of this Supplement shall be remitted upon receipt to those Carriers adversely affected by noncompliance with TTX Company's DI's or CMD's as provided herein.
2. Whenever the Director - Intermodal Distribution Services of TTX Company has been requested to issue a penalty bill and has determined that charges are due for non-compliance with a DI or CMD, he shall notify the designated officer of the non-complying Carrier, in writing, within 30 days of the Last Voluntary Date and

advise the amount of the charges due. Said Carrier shall have 30 days from receipt of such notice to offer proof that it had not failed to comply. If TTX Company finds such proof insufficient, Carrier shall, within 30 days, either remit the amount of the charges or request the Director - Intermodal Distribution Services of TTX Company to submit to arbitration, as hereinafter provided, the question of whether such failure to comply did occur.

3. When arbitration herein has been requested, the dispute shall be presented to the Director - Intermodal Distribution Services of TTX Company by written abstract furnished within 30 days from the date on which arbitration was requested. This arbitration clause shall govern only disputes relating to failure to comply with a DI or CMD and shall not affect the arbitration remedy provided in the Form A Car Contract for other disputes under the Contract. The Intermodal Advisory Committee, as established by the management of TTX Company, shall act as the arbitration committee. The arbitration committee may request oral presentation by the Director - Intermodal Distribution Services of TTX Company and the Carrier charged with noncompliance. A majority of the arbitration committee shall constitute a quorum, and a majority vote of those present shall govern. Members of the arbitration committee, determined by the Director - Intermodal Distribution Services of TTX Company to be involved in or affected by the dispute being considered, will be disqualified from discussion and voting on the dispute being considered. The arbitration committee, within 30 days after consideration of the dispute, shall render its decision and such decision shall be final.

* Excluding Saturday, Sunday and TTX Company observed holidays.

** Commencing at noon the day following transmission of the DI, CMD or other information, excluding Saturday, Sunday and TTX observed holidays.

ATTEST:

[Signature]

DATE: 5/12/02

ATTEST:

[Signature]

DATE: 7/27/2000

APPROVED:

Burlington Northern Santa Fe

(Carrier)

By: [Signature]

Title: Executive Vice President and
Chief Marketing Officer

TTX COMPANY:

By: [Signature]

Title: Chairman & CEO

**SUPPLEMENTS NOS. 176 - 179
HAVE EXPIRED OR BEEN SUPERSEDED**

The next supplement reproduced herein is

Supplement No. 180


SUPPLEMENT NO. 180 to the

TTX COMPANY FORM A CAR CONTRACT

Pursuant to the authority delegated by the TTX Board of Directors to reduce rates, Supplement No. 180 to the Form A Car Contract will become effective July 1, 2002. The Supplement will serve to reduce car hire rates by an average of approximately 3.1% on certain of the Company's cars as specified herewith.

TTX COMPANY

By:


A. F. Reardon, President &
Chief Executive Officer

June 20, 2002

Revised 6/28/2002

Exhibit A
Page 1 of 4

TTX COMPANY
CAR HIRE CHARGES AND MILEAGE RATES
PURSUANT TO SUPPLEMENT NO. 180
EFFECTIVE JULY 1, 2002

# Of Platforms, Wells or Length		Rate Per Hour	Description
Initial			
<u>TOFC/COFC Fleet</u>			
TTX	89'-89'4"	@0.34 + M	Standard Deck TOFC Car
ATTX	60'	@0.67	COFC Container Carrying Car - 3 20' or 1 20' and 1 40' Container Suitable for Carrying Ammunition
DTTX	1-Well	0.50 + M	Single Unit, Double-Stack COFC, High Capacity
DTTX	1-Well	0.51 + M	Single Unit, All Purpose Double-Stack TOFC/COFC
DTTX	1-Well	0.82 + M	Single Unit, Double-Stack COFC, 56'
DTTX	3-Wells	1.55 + M	48' Three Unit, Drawbar Connected, Double-Stack COFC
DTTX	3-Wells	1.59 + M	48' Three Unit, Drawbar Connected, All Purpose Double-Stack TOFC/COFC
DTTX	3-Wells	1.38 + M	48' Three Unit, Articulated, All Purpose Double-Stack
DTTX	3-Wells	1.29 + M	53' Three Unit, Articulated, Double-Stack COFC
DTTX	3-Wells	1.37 + M	53' Three Unit, Drawbar Connected, Double-Stack COFC
DTTX	4-Wells	1.97 + M	Four Unit, Drawbar Connected, Double-Stack COFC, High Capacity
DTTX	4-Wells	2.04 + M	Four Unit, Drawbar Connected, All Purpose Double-Stack TOFC/COFC
DTTX	5-Wells	1.81 + M	Articulated, Double-Stack COFC, 100 Ton
DTTX	5-Wells	1.85 + M	Articulated, Double-Stack COFC, with Bulkheads
DTTX	5-Wells	1.89 + M	Articulated, Double-Stack COFC, 125 Ton Intermediate Trucks
KTTX	89'-4"	@0.38 + M	"Twin-45" Standard Deck TOFC Car with Non-retractable Hitches
NTTX	5-Platform	@1.26 + 2.5M	Spine Single-Stack COFC Car
RTTX	89'-4"	@0.40 + M	Standard Deck, 3 Hitch TOFC Car, 2 45' Trailers or 3 28' Trailers
RTTX	89'-4"	@0.40 + M	Standard Deck, TOFC/COFC All Purpose, 3 Hitches, "Twin-45" Car or 3 28' Trailers and Various Size Containers
RTTX	2-Unit	@0.84 + 2M	Two 89'4" Units, Drawbar Connected, Equipped with Six Hitches to Carry Six 28' Pups, Four 45' Trailers with Knock-down Center Hitches
TTAX	3-Platform	@0.94 + 1.5M	All Purpose Spine, Articulated, Single Stack TOFC/COFC
TTAX	5-Platform	@1.39 + 2.5M	All Purpose Spine, Articulated, Single Stack TOFC/COFC
TTAX	53' 5-Platform	@1.44 + 2.5M	All Purpose Spine, Articulated, Single Stack trailers and Containers up to 53' on All Platforms
TTGX	89'4"	@0.38 + M	COFC Container Carrying Car
TTGX	60'	@0.57	COFC Container Carrying Car - 3 20' or 1 20' and 1 40' Container
TTEX	2-Unit	@0.69 + 2M	Drawbar Connected Coupled TOFC Car - 3 Trailers up to 57' Long or 4 45' Trailers
TTEX	2-Unit	@0.66 + 2M	Two 89'4" Units, Drawbar Connected, Equipped with Three Hitches for Carrying Trailers up to 57' Length
TTLX	5-Platform	@1.60 + 2.5M	Articulated TOFC Car
TTOX	1-Platform	@0.33 + .5M	Single Platform TOFC Car with Modified Single Axle Trucks
TTRX	57'-3 Platforms	@1.27 + 1.5M	All Purpose Spine, Articulated, 2 28' Trailers or 1 Trailer 40 - 57' Per Platform & Containers 40 - 53' Long on All Platforms
TTWX	89'4"	@0.40 + M	TOFC/COFC All Purpose, "Twin-45" Car - No Bridge Plates - Retractable Hitches
UTTX	5-Platform	@1.60 + 2.5M	Articulated TOFC Car
VTTX	60'	@0.57	COFC Container Carrying Car - 3 20' or 1 20' and 1 40' Container
VTTX	85'-89'	@0.84	COFC Container Carrying Car - 20' and/or 40' Containers
WTTX	89'4"	@0.38 + M	"Twin-45" TOFC Car - No Bridge Plates - Retractable Hitches

<u>Initial</u>	<u># Of Platforms, Wells or Length</u>	<u>Rate Per Hour</u>	<u>Description</u>
<u>Auto Rack Fleet</u>			
ETTX	89'4"	@0.72	Enclosed Tri-level Racks (Hydraulic Draft Gears)
ETTX	89'4"	@2.28	Enclosed Tri-level Racks (Hydraulic Draft Gears) - TTX Owned
TTBX	89'4"	@0.67	Bi-level Racks (Hydraulic Draft Gears)
TTGX	89'4"	@0.72	Enclosed Bi-level Racks (Hydraulic Draft Gears)
TTQX	89'4"	@0.72	Enclosed Tri-level Racks - 20' 2" Excessive Height (Hydraulic Draft Gears)
TTSX	89'4"	@0.72	Coverless Enclosed Bi-level Racks (Hydraulic Draft Gears)
BTXX		@2.43	Articulated Bi-level Autorack
TTNX	89'4"	@0.72	Enclosed Bi-level Rack (Hydraulic Draft Gears)
<u>Special Equipment Fleet</u>			
FTTX	89'-89'4"	@0.49	Auto Frame Special Loading (Standard & Hydraulic Draft Gears)
GTTX	89' 4"	@0.72	Flat Car Modified For Autorack Application
HTTX	60'	@0.54	Heavy-Duty Turnbuckles and Chains in Four Channels
ITTX	89'-89'4"	@0.61	Pedestal Equipped for Truck Loading
ITTX	89'4"	@0.64	Cars Equipped with Complement of 50 Chains for Hauling Vehicles
ITTX	89'4"	@0.76	Cars Equipped with 2 or 4 Channels for Vehicle Loading
JTTX	60'	@0.35	Miscellaneous Devices Applied by Participant
JTTX	75'	@0.37	Miscellaneous Devices Applied by Participant
JTTX	85'-89'4"	@0.45	Miscellaneous Devices Applied by Participant (Standard & Hydraulic Draft Gears)
JTTX	89'4"	@0.48	Cars Equipped for Pipe Loading
JTTX	60'	@0.54	Equipped to Carry Logs and Poles
JTTX	60'	@0.70	Equipped to Carry Logs and Poles
MTTX	89'	@0.60	Multi-Purpose Flats Equipped with Bulkheads
MTTX	85'	@0.52	Multi-Purpose Flats Equipped with Bulkheads to Transport Long Rail
MTTX	85'	@0.48	Multi-Purpose Flats
MTTX	60'	@0.35	Multi-Purpose Flats
OTTX	60'	@0.54	Farm Equipment Car
PTTX	60'	@0.35	Bulkhead Car
JTTX/XTTX	89'	@1.05	100-Ton Nailable Steel Floors
TTDX	89'-89'4"	@0.61	Chain Tie-Down Equipment
TTHX	60'	@0.56	Heavy-Duty Turnbuckles and Chains in Stake Pockets
TTJX	68'	@0.59	100-Ton Flat Cars with various Tie-Down Systems
TTJX	68'	@0.74	100-Ton Flat Cars with Bulkheads for Coiled Rod/Poles/Aluminum
MTTX	62'	@1.09	Car Equipped for Aircraft Parts
TTMX	68'	@0.59	100-Ton Plain Flat Car, General Service
TPPX	68'	@0.64	100-Ton Flat Car, with Bulkheads
TTZX	63'	@0.58	Center Beam Lumber Flats, 60'8" between Bulkheads
TTZX	75'5"	@0.59	Center Beam Lumber Flats, 73' between Bulkheads
ZTTX	85'	@0.51	Thirty (30) Stake Pocket Equipped Car

M - Mileage rates are shown on Exhibit A, Page 3 and Page 4. OTTX equipment, as of January 1, 1988, are excluded from the calculation of average miles per day for intermodal cars, and have a separate mileage rate table on Page 4.

@ - The hourly rates on these car types have changed, or a new rate has been established for a new car type. All other hourly rates remain unchanged.

TTX COMPANY
MILEAGE RATES PURSUANT TO SUPPLEMENT NO. 180
EFFECTIVE JULY 1, 2002

<u>AVERAGE CAR MILES PER HOUR DURING THE MONTH (TOFC/COFC CAR ON LINE)*</u>	<u>RATE PER MILE FOR EVERY MILE OF MOVEMENT ON LINE DURING THE MONTH (CENTS)</u>
6.3 or less	3.66
Over 6.3 but not over 6.5	3.62
Over 6.5 but not over 6.7	3.58
Over 6.7 but not over 6.9	3.53
Over 6.9 but not over 7.1	3.50
Over 7.1 but not over 7.3	3.46
Over 7.3 but not over 7.5	3.43
Over 7.5 but not over 7.7	3.39
Over 7.7 but not over 7.9	3.36
Over 7.9 but not over 8.1	3.30
Over 8.1 but not over 8.3	3.27
Over 8.3 but not over 8.5	3.23
Over 8.5 but not over 8.8	3.20
Over 8.8 but not over 9.0	3.16
Over 9.0 but not over 9.2	3.12
Over 9.2 but not over 9.4	3.08
Over 9.4 but not over 9.6	3.05
Over 9.6 but not over 9.8	3.01
Over 9.8 but not over 10.0	2.98
Over 10.0 but not over 10.2	2.94
Over 10.2 but not over 10.4	2.90
Over 10.4 but not over 10.6	2.86
Over 10.6 but not over 10.8	2.83
Over 10.8 but not over 11.0	2.78
Over 11.0 but not over 11.3	2.75
Over 11.3 but not over 11.5	2.71
Over 11.5 but not over 11.7	2.67
Over 11.7 but not over 11.9	2.63
Over 11.9 but not over 12.1	2.60
Over 12.1 but not over 12.3	2.55
Over 12.3 but not over 12.5	2.52
Over 12.5 but not over 12.7	2.47
Over 12.7 but not over 12.9	2.45
Over 12.9 but not over 13.1	2.41
Over 13.1 but not over 13.3	2.40
Over 13.3 but not over 13.5	2.37
Over 13.5	2.35

* The mileage and hours of all TOFC/COFC cars, except those listed below, are used to determine the average car miles per hour. The TOFC/COFC cars excluded from this calculation are:

DTTX - Mileage rates for DTTX cars are shown on Page 4
TTCX** - (60')
VTTX** - (60', 85' & 89')

** No mileage payments are due on these car types

**TTX COMPANY
MILEAGE RATES FOR DTTX EQUIPMENT
PURSUANT TO SUPPLEMENT NO. 180
EFFECTIVE JULY 1, 2002**

<u>Car Initial</u>	<u># Of Wells</u>	<u>Per Mile Charge</u>
DTTX	1-Well	0.0136
DTTX	3-Wells	0.0410
DTTX	4-Wells	0.0550
DTTX	5-Wells	0.0680

SUPPLEMENT NO. 181
HAS EXPIRED OR BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 182

PLEASE RETURN THIS COPY
TO P.B. LOFTUS AT TTX
UPON EXECUTION.

SUPPLEMENT NO. 182
to
TTX COMPANY FORM A CAR CONTRACT
(Effective September 1, 2002)

Pursuant to action taken by the TTX Board of Directors on September 26, 2002, the Form A Car Contract between Carriers and TTX is supplemented and Supplement 175 is amended to provide the following terms and conditions with respect to cars bearing the prefix DTTX and allocated to Carrier for use in intermodal service on or after September 1, 2002.

I. Allocation of DTTX cars:

- (A) "Allocated Capacity" refers to a predetermined number of double-stack Platforms (as defined in Supplement 175) available for allocation among the Carriers. It is not car number specific. Allocated Capacity shall be identified in an additional Supplement.
- (B) From time to time, TTX shall notify a Carrier of the number of Platforms available for allocation to Carrier ("Notification"). TTX shall use Carrier's Utilization Calculation (as defined in Supplement 175 of the TTX Form A Car Contract, or any successor Supplement) to determine the portion of the Allocated Capacity available to each Carrier. A Carrier's Utilization Calculation shall be based on the calculation in effect during the month preceding the date Carrier receives Notification.
- (C)
 - (1) TTX will poll all Carriers to determine the amount of Allocated Capacity that each Carrier will accept. Carrier shall have fourteen (14) days to respond to TTX's initial inquiry, advising the number of Platforms it will take in allocation.
 - (2) If any eligible Platforms remain unallocated after the first round of polling by TTX, the process will be repeated on the remaining Platforms until all eligible Platforms are allocated, or no Carrier desires any additional Allocated Capacity. Carrier shall have two (2) business days from the date of Notification to advise TTX if it desires any of the remaining unallocated capacity.
- (D) Any Platforms that remain unallocated will be subject to redistribution under the provisions of Supplement 175 or a successor Supplement.

II. Control of Allocated Cars:

Once each week, TTX will calculate the number of Platforms on Carrier's lines above its allocated amount. Those Platforms that exceed Carrier's allocation will be subject to redistribution pursuant to Supplement 175, or a successor Supplement.

III. Term:

The term of each allocation shall be identified in an additional Supplement and shall not exceed three (3) years.

IV. Car Hire Charges:

The rates to be paid for the Allocated Capacity will be the existing TTX rates for car hire and mileage for double-stack Platforms, subject to any special incentives specifically applicable to Allocated Capacity. Any special incentive shall be identified in additional Supplements.

V. Surplus or Stored Cars:

Carrier cannot declare Allocated Capacity surplus or stored.

VI. Effect on Supplement 175:

Supplement 175 or a successor Supplement is hereby modified to exclude DTTX Platforms subject to allocation as prescribed in this Supplement from all provisions of Supplement 175 including the "Utilization Calculation" defined in paragraph I.

ATTEST:

Date: _____

APPROVED:

The Burlington Northern and
Santa Fe Railway Company
(Carrier)

By: 

Title: Executive VP & CMO

TTX COMPANY:

By: 

A.F. Beardon, President and
Chief Executive Officer


ATTEST

Date: 10-1-02

SUPPLEMENT NO. 183
to
TTX COMPANY FORM A CAR CONTRACT
ALLOCATION 01
(Effective September 1, 2002)

Pursuant to action taken by the TTX Board of Directors on September 26, 2002, Allocated Capacity under this Allocation 01 will be subject to the following car hire rates and terms:

Allocated Capacity: 7,608 Double-Stack Platforms

Term: September 1, 2002 – August 31, 2003

Rate: For the months of September, October, November and December 2002, a special incentive amounting to a 55% discount shall be applied to the current DTTX car hire rate on this Allocated Capacity. The special incentive for each participating Carrier will be calculated by determining the average per platform car hire rate for all double-stack Platforms on that Carrier's line for the month and then discounting the average daily car hire for Allocated Capacity by 55% for the month. If a Carrier qualifies for a "Bonus Discount" as outlined in Supplement No. 181 to the TTX Form A Car Contract, a Carrier's Allocated Capacity is eligible for the amount of that discount as well.

TTX COMPANY

By: 
A. F. Reardon, President
and Chief Executive Officer

September 26, 2002

SUPPLEMENT NOS. 184 - 185
HAVE EXPIRED OR BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 186

SUPPLEMENT NO. 186

**TO TTX COMPANY FORM A CAR CONTRACT
SUPERSEDING SUPPLEMENT NO. 179**

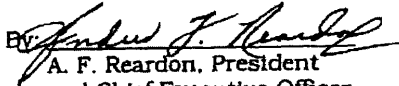
(Effective July 1, 2003)

Pursuant to action taken by the TTX Board of Directors on June 26, 2003, Supplement No. 179, effective June 1, 2002, to the Form A Car Contract, is hereby superseded by Supplement No. 186. Supplement 186 continues the "ACE" Incentive Program ("Program") with modifications. The Program shall be effective July 1, 2003, and continue until otherwise modified or terminated.

The Program will operate as follows:

1. The Program applies to free running DTTX doublestack cars only.
2. Only those Carriers that maintain 100% utilization of the serviceable DTTX cars on their railroad, during each service month, will be eligible for the Program.
3. Effective July 1, 2003 through December 31, 2003, eligible Carriers shall be entitled to a 30% discount on the monthly car hire paid for the use of DTTX cars.
4. Effective January 1, 2004, eligible Carriers shall be entitled to a 10% discount on the monthly car hire paid for the use of DTTX cars.
5. The discount will be reduced for platforms not delivered pursuant to Disposition Instructions when the last voluntary delivery date falls within the calendar month for which the incentive is calculated. The reduction shall be calculated by multiplying the average daily car hire for DTTX cars during the service month, by the number of platforms not delivered on directives, multiplied by seven (days).
6. Applicable mileage charges will continue to apply.

TTX COMPANY

By 
A. F. Reardon, President
and Chief Executive Officer

SUPPLEMENT NO. 187

**TO TTX COMPANY FORM A CAR CONTRACT
MODIFYING SUPPLEMENT NO. 180**

(Effective July 1, 2003)

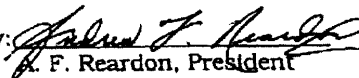
Pursuant to action taken by the TTX Board of Directors on June 26, 2003, Supplement No. 180, effective July 1, 2002, to the Form A Car Contract, is hereby modified by the Centerbeam Incentive Program ("Program"). The Program provides a 20% discount on car hire during a given month, in accordance with the rules provided below. The Program shall be effective July 1, 2003, and continue until otherwise modified or terminated.

The Program will operate as follows:

1. The Program applies to TTZX Centerbeam cars only.
2. Only those Carriers that maintain 100% utilization of the serviceable TTZX cars on their railroad, during each service month, will be eligible for the Program.
3. Eligible Carriers shall be entitled to a 20% discount on the monthly car hire paid for the use of TTZX cars.

TTX COMPANY

By:


A. F. Reardon, President
and Chief Executive Officer

SUPPLEMENT NOS. 188 - 189
HAVE EXPIRED OR BEEN SUPERSEDED

The next supplement reproduced herein is

Supplement No. 190

SUPPLEMENT NO. 190

TO TTX COMPANY FORM A CAR CONTRACT AMENDING SUPPLEMENT NO. 175

(Effective October 17, 2003)

Pursuant to action taken by the TTX Board of Directors on October 17, 2003, Supplement No. 175, effective August 1, 2000, to the Form A Car Contract, is hereby amended to establish a monthly entitlement methodology for the redistribution of intermodal cars bearing the prefix DTTX ("Cars"). The provisions of Supplement No. 175 remain unchanged with respect to all other intermodal cars bearing the prefixes shown under the definition of "Platform" in Supplement No. 175. This Supplement No. 190 shall be in effect from October 17, 2003 until otherwise amended, superseded or cancelled.

Terms as defined in Supplement No. 175 shall be so defined in this Supplement No. 190 unless otherwise redefined herein.

The following paragraphs of Supplement No. 175 are hereby modified to read in full as follows:

I. A. USE CALCULATION FOR DTTX CARS

1. A Carrier's percent of use calculation for DTTX Cars ("Use Calculation"), as depicted in Exhibit A to this Supplement No. 190, shall be equal to Carrier's weighted three-month Usage Factor as a percent of the weighted three-month Usage Factor of DTTX Platforms by all signatories to this agreement during the most recent three-month period.
2. A Carrier's weighted three-month Usage Factor for DTTX cars shall be equal to the total of Carrier's Platform Factors for DTTX cars for the prior three months where the most recent month is weighted by a factor of three (3), the first prior month weighted by a factor of two (2), and the second prior month weighted by a factor of one (1). The weighted three-month Usage Factor for all DTTX Cars shall be equal to the total of Platform Factors for all Carriers for DTTX cars during the prior three months where the most recent month is weighted by a factor of three (3), the first prior month weighted by a factor of two (2), and the second prior month weighted by a factor of one (1).
3. A Carrier's monthly Platform Factor shall be equal to its Platform Factor from the prior month, plus Carrier's proportionate share of new DTTX Platforms added to the fleet during the current month, adjusted for idle Cars and for the effects of Cars not ordered during the current month.
4. In order to implement the methodology described in this Supplement 190, the Use Calculations described herein will be calculated by starting with

each Carrier's Percent of Utilization entitlement, as described in Supplement No. 175, as of January 1, 2003, for DTTX cars only. A Platform Factor will then be calculated for each Carrier, each month, through August 2003 using the elements described in paragraph No. I-3 above. The Platform Factors for the months of June, July, and August, 2003 will be used to generate a Use Calculation for each Carrier which will then be phased-in over a four week period beginning October 17, 2003.

5. Once each week, TTX Company shall use the most current Use Calculation as the basis to notify Carrier of: (1) its percent of use, and (2) during periods of surplus, its current Platforms-on-line requirement or during periods of shortage, its proportionate share or entitlement for DTTX Platforms.

Paragraph IV-2-a:

- a. The average number of serviceable Platforms actually on Carrier's lines, adjusted upward by one Platform for each Platform not yet received on active Disposition Instructions (DI's) and adjusted downward by one platform for each Platform not yet delivered on active DI's.

All references to "Utilization Calculation" in Supplement No. 175 shall be changed to read "Use Calculation" and shall be defined as indicated above as they relate to DTTX Cars.

All references to paragraph "I-3" in Supplement No. 175 shall refer to paragraph "I-5" above as they relate to DTTX Cars.

Except as otherwise provided herein, all provisions of Supplement No. 175 remain in full force and effect with regard to the redistribution of intermodal cars bearing the prefix DTTX.

TTX COMPANY

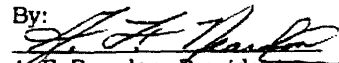
By: 
A. F. Reardon, President
and Chief Executive Officer

Exhibit A to Supplement 190

PLATFORM-BASED MONTHLY ENTITLEMENT METHODOLOGY
FOR THE REDISTRIBUTION OF DTTX CARS

PERCENT OF USE CALCULATION

The process to calculate a carrier's Percent of Use for the month of July, for example, can be described as indicated below:

	April		May		June	
	Platforms	% of Use	Platforms	% of Use	Platforms	% of Use
Beginning Fleet (Previous month's Platform Factor)	100		104		107	
New cars added	5		6		4	
Idle adjustment	-3		2		-2	
"Cars not ordered" adjustment	2		-5		3	
Ending Fleet (Platform Factor)	104	25.00	107	25.48	112	26.23

1. Calculate the Platform Factor for the Carrier's DTTX cars for the month of June as follows:

Beginning fleet (Previous month's Platform Factor)	107
Add New Cars added during June	+4
Apply idle car adjustment	-2
Apply adjustment for effect of platforms not ordered in June	+3

Ending Platform Factor for June	112

2. Calculate the weighted three-month Usage Factor:

April Platforms times 1	104 * 1 =	104
May Platforms times 2	107 * 2 =	214
June Platforms times 3	112 * 3 =	336

		654

3. Calculate the equivalent three-month weighted Usage Factor for the entire DTTX fleet on member railroads:

April Platforms times 1	416 * 1 =	416
May Platforms times 2	420 * 2 =	840
June Platforms times 3	427 * 3 =	1,281

		2,537

4. Determine the Carrier's Percent of Use (result of 2 divided by result of 3 above x 100), and thus entitlement, to be used in the weekly allocation process for the month of July:

$$654 / 2,537 * 100 = \boxed{25.78\%}$$

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FORM D

Rev. to 3/25/61.

SPECIAL DEVICES CONTRACT

Between

TRAILER TRAIN COMPANY

And

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
Railroad

THIS AGREEMENT dated as of September 1, 1960, between
The Atchison, Topeka and Santa Fe Railway Company,
a Kansas corporation (hereinafter called the Rail-
road), and TRAILER TRAIN COMPANY, a Delaware corporation (here-
inafter called Trailer Train);

WITNESSETH THAT:

WHEREAS, one or more railroads, who are stockholders
of Trailer Train have acquired and equipped or will acquire
and equip railroad flat cars of Trailer Train (hereinafter
called the Cars or individually a Car) with special devices
(hereinafter called the Special Devices) of the type or types
described in Schedule A annexed hereto as from time to time
amended;

WHEREAS, the railroads listed in Schedule B annexed
hereto as from time to time amended (hereinafter called the
Owners) have requested Trailer Train to collect for the ac-

count of the Owners charges for the use of Special Devices by other railroads; and the Owners have agreed that the terms and provisions of this contract shall be applicable in respect of the use by Railroad of the Special Devices of such Owners;

NOW, THEREFORE, in consideration of the sum of one dollar (\$1.00) paid by each to the other, the receipt of which is hereby acknowledged, the parties hereto do agree as follows:

SECTION 1. Railroad shall report monthly to Trailer Train by states and by types of Special Devices the mileage made by Cars so equipped in such form as may be required by Trailer Train. Railroad hereby agrees to pay to Trailer Train for the account of Owners of the Special Devices monthly and as promptly as the amount payable can be ascertained and paid, but in any event not less than sixty days after the close of the month to which such payment relates, the applicable charge for the Special Devices attached to each Car (loaded or empty) on the lines of Railroad. The daily charge for each Car set of each Special Device (hereinafter called the user charge) shall be at the rate specified for such Special Device in the Schedule or Schedules attached hereto. Trailer Train agrees to remit to Owners of the Special Devices the user charge paid by Railroad to Trailer Train pursuant to this Agreement, less such amount as may be agreed upon from time to time between Trailer Train and Owners to reimburse

Trailer Train for the costs of collection, and also less any amounts which Trailer Train may by law be required to withhold. The parties hereto may attach additional Schedules to this Agreement from time to time as different types of Special Devices are equipped to Cars.

SECTION 2 (a). Except as otherwise provided in this Section and in Section 3 hereof, Railroad shall be responsible for the user charges for Special Devices on any Car from the time it accepts such Car until redelivery of such Car to Trailer Train, or to the Owner of the Special Devices, or to a railroad which is a party to a Special Devices Contract (Form D) with Trailer Train (of which Trailer Train shall keep Railroad informed) for payment of the user charges for the Special Devices on the Car. The foregoing obligations shall apply whether or not the Car is on Railroad's lines.

(b) Railroad shall not be obligated to pay the user charge for Special Devices on a Car if the Car to which the Special Devices are affixed is being moved empty at the request of Trailer Train, or at the request of Owner, and such movement is not a return movement of a loaded Car moved over the lines of Railroad or an empty movement to a point on Railroad or on another railroad for loading which will result in a loaded return movement over the lines of Railroad.

(c) Where delivery by Railroad to a road-haul connection of a Car equipped with Special Devices involves a movement over an intermediate switching railroad which is not a party to or covered by the terms of a Special Devices Contract (Form D) made with Trailer Train, Railroad shall be responsible for the user charge for the Special Equipment when on lines of the intermediate switching railroad if Railroad is responsible for the user charges for the preceding movement on its own lines.

SECTION 3. Notwithstanding any other provisions of this Agreement:

(a) Trailer Train shall not collect any user charges for the Special Devices on any Car when such Car is on lines of the Owner of the Special Devices.

(b) Trailer Train shall not collect any user charges for the Special Devices on any Car if such Car is in a pool of Cars being used in an interline movement with the Owner of the Special Devices and if the Owner has instructed Trailer Train not to collect the user charges for the Special Devices on such movement.

SECTION 4. It is understood and agreed that each Owner of the Special Devices shall apply, remove and store its Special Devices at the expense of Owner.

SECTION 5. Any taxes on the Special Devices, as well as any increase in taxes on the Cars by reason of the existence of Special Devices, including therein any taxes on the gross receipts or earnings therefrom, shall be borne by the Owners, except that any net income taxes attributable to amounts received by Trailer Train for collection of the user charge on Special Devices shall be borne by Trailer Train; and if any such taxes to be borne by the Owners are required to be paid by Railroad or Trailer Train such payment shall be reimbursed by Owners.

SECTION 6. (a) Railroad shall inspect each Special Device at the time a Car equipped with a Special Device is offered to it in interchange, and Railroad may refuse to accept any Special Device which is defective. Railroad shall immediately notify Owner of the Special Device and the delivering railroad of such defect and shall furnish a copy of such notification to Trailer Train for its information. Railroad shall be responsible for any damage which may occur to a Special Device unless it shall have notified Owner at the time of acceptance by Railroad of the Special Device in interchange from another railroad of the existence of such damage to the Special Device, or unless the existence of such damage was reported to Owner by another railroad which had possession of the Special Device prior to Railroad. Each Owner shall, upon receipt of a request from Railroad,

furnish to Railroad such information as Railroad shall deem necessary or appropriate to enable Railroad to ascertain whether the Special Devices of such Owner which are on Cars tendered to Railroad in interchange are complete and in good working order and condition.

(b) Railroad shall report to Trailer Train and to Owner of the Special Devices any loss, destruction of, or damage to, any Car equipped with Special Devices, or to the Special Devices on a Car within ten days after its occurrence. Within ten days after receipt of such report (1) Trailer Train shall furnish to Railroad in respect of any loss or destruction of or damage to a Car, and/or (2) the Owner shall furnish to Railroad in respect of any loss or destruction of or damage to any Special Devices of Owner on a Car, instructions with respect thereto, and Railroad shall dispose of such Car and/or Special Devices in accordance with the instructions given.

(c) If any of the Special Devices are lost, destroyed or damaged on the lines of Railroad, and regardless of whether or not caused by negligence of Railroad or of any other person, firm or corporation, Railroad shall promptly pay to the appropriate Owner:

(i) if the Special Device is damaged and such damage can be repaired, a sum equal to the cost of repairing the damaged Special Device; or

(ii) if the Special Device is lost, destroyed or damaged beyond repair, a sum equal to the greater of, (1) the fair market value thereon prior to such loss, destruction or damage beyond repair, or (2) the original cost of the Special Device less depreciation thereon at the rate of 25% per annum from the date of application of the Special Device to the Car to the date of its loss, destruction or damage beyond repair. Upon making such payment Railroad shall be entitled to the scrap from the Special Device.

(d) A Special Device shall, for the purposes of this Contract, be deemed to be lost, destroyed or damaged on lines of Railroad if (1) the Special Device is lost, destroyed or damaged off the lines of Railroad and Railroad is responsible for the user charges for such Special Device pursuant to the terms of Section 2 (a) hereof, or (2) a Special Device is delivered by Railroad in a damaged condition to another railroad unless the existence of such damage was reported to Owner by Railroad at the time the Special Device was accepted in interchange by Railroad, or was reported to Owner by another railroad which had possession of the Special Device prior to Railroad.

(e) Railroad shall not be relieved of any obligation under this Section for loss, destruction of, or damage to

a Special Device occurring on the lines of Railroad by reason of the absence of an obligation on the part of Railroad to pay the user charge at the time of the loss, damage or destruction of any Special Device.

SECTION 7. Except where the responsibility is placed upon Railroad pursuant to Section 6 hereof, it is agreed that the Owners shall maintain the Special Devices in good condition and repair. Railroad shall notify Owner of any Special Devices which may need repairs. No repairs other than ordinary running repairs shall be made by Railroad for the account of Owners without Owners' prior written consent. Owners shall pay or reimburse Railroad for ordinary running repairs made by Railroad to the Special Devices promptly upon receipt of a bill therefor, such bills to be rendered monthly. User charges for Special Devices shall abate during the period such Cars or the Special Devices affixed thereon are unfit for service. User charges under the Form A or Form C car contract shall not abate during the period the Cars are fit for service and the Special Devices affixed thereon are unfit for service.

SECTION 8. (a). No Owner shall be liable, (1) for any loss of or damage to articles, commodities, trailers, containers, commodities in trailers or containers, or any other thing loaded on the Cars equipped with Special Devices, which

may occur off of Owner's lines, except that where liability in respect of such loss or damage is covered by the Freight Claims Rules of the Association of American Railroads, such rules shall supersede any conflicting provisions of this Section 8 (a), or (2) for any loss or damage to property other than property loaded on the Cars equipped with Special Devices, whether property of Railroad or of any other person, firm or corporation, which may directly or indirectly arise out of or be connected with the Special Devices or use of the Special Devices while on lines of Railroad. Trailer Train shall not be liable (i) for any loss of or damage to articles, commodities, trailers, containers, commodities in trailers, or containers, or any other thing loaded on the Cars, whether occurring on the lines of any Owner, any Railroad, or any other person, or (ii) for any loss of or damage to any property other than property loaded on Cars equipped with Special Devices, whether property of Owners, Railroad, or of any other person, firm or corporation, which may directly or indirectly arise out of or be connected with the Special Devices or any use of the Special Devices on Cars on lines of Railroad. Railroad agrees to indemnify the Owners and Trailer Train, respectively, against, and to save each of them harmless from, any such loss or damage, or claim thereof, occurring on Railroad's lines, and regardless of whether or not

based upon negligence of any Owner or Trailer Train. Each Owner agrees to indemnify Trailer Train against, and to save it harmless from, any such loss or damage, or claim thereof, occurring on Owner's lines, and regardless of whether or not based upon negligence of Trailer Train.

(b) The Owners and Trailer Train shall not be liable for, and Railroad agrees to indemnify, protect and hold the Owners and Trailer Train harmless from, all claims for personal injuries, including death, incurred by any officers, agents, or employees of Railroad, or by any other persons whatsoever, caused by or arising out of or in connection with the loading, unloading, movement, use or possession on lines of Railroad of Cars equipped with Special Devices, and regardless of whether or not based upon negligence of Owners or Trailer Train or any other person, firm or corporation, provided, however, that Railroad shall not be obligated to indemnify Trailer Train or the Owners for injury to or death of their respective officers, agents, or employees.

SECTION 9. (a) Trailer Train may order Special Devices removed from any Car which is not in transportation service for twenty successive days if in the opinion of Trailer Train there is a need for such Car without the Special Devices by any corporation to which Trailer Train may be obligated to furnish Cars. In such event the Car equipped

with Special Devices will be returned promptly to Owner at the request of Trailer Train and Owner shall bear the cost of removal of the Special Devices. A Car shall be deemed not to be in transportation service when it is neither under load nor in movement (loaded or empty) at any time during the day.

(b) Notwithstanding any provisions to the contrary contained in any Trailer Train Company Form A or Form C Car Contract, it is understood and agreed that:

(1) Upon a certification by Railroad to Trailer Train that a Car equipped with Special Devices was located at a particular point on Railroad's lines and not in transportation service (as defined in the last sentence of paragraph (a) of this Section) during a particular day, Railroad will be allowed a reclaim of 50% of the per diem charge (or, if applicable, the minimum charge) for such Car for that day under the Form A or Form C Car Contract of Railroad with Trailer Train; provided, however, that no reclaim will be allowed for any Car for more than ten successive days. Full per diem and mileage charges (or, if applicable, the minimum charges) under the Form A or Form C Car Contract shall apply at all other times except to the ex-

tent otherwise provided in Section 9(b)(3) hereof. No reclaim or abatement of any part of any user charge for Special Devices will be allowed to Railroad for Cars not in transportation service.

(2) Railroad shall not be entitled to require Trailer Train to accept the return, or to require Trailer Train to arrange for the disposition, of any Car equipped with Special Devices. Paragraph 6 (c) of the Form A Car Contract and the first three sentences of Section 18 (c) of the Form C Car Contract shall not be applicable to Cars equipped with Special Devices.

(3) A maximum of three days free time will be allowed for application or removal by the Owner of the Special Devices, and no per diem (or, if applicable, minimum charges) shall be payable to Trailer Train by the Owner pursuant to a Form A or Form C Car Contract during such period, provided, however, that such three-day period shall not include any period during which any Cars may be moved over the lines of Owner, or the lines of any other railroad, and Form A or Form C per diem and mileage charges (or, if applicable, minimum

charges) shall be payable by Owner in respect of any such movement (loaded or empty) of any Cars. In the event application or removal of the Special Devices cannot be completed in three days, per diem and mileage charges (or, if applicable, minimum charges) under the Form A or Form C Car Contract shall thereafter commence to accrue and shall be payable to Trailer Train by the Owner.

SECTION 10. It is understood that the user charges for Special Devices set forth in the Schedule or Schedules annexed hereto are based upon estimated costs, expenses and revenues, and any such user charges may at any time be increased or decreased, without the consent of Railroad, in order to reflect more closely actual costs, expenses and revenues; provided that not less than sixty days' notice of any such increase or decrease shall be given to Railroad. In the event such notice shall specify an increase in any user charge, Railroad may terminate this contract as of the date such increase is scheduled to be effective, provided that notice of such termination is given by Railroad to Trailer Train not less than thirty days prior to the effective date of such increase. A revised Schedule or Schedules shall be attached hereto which shall set forth the user charges as so increased

or decreased.

SECTION 11. Railroad understands that its rights hereunder, including its right to use the Special Devices, are subject to the terms of any conditional sale, lease, mortgage or other financing agreement relating to the Special Devices. No title, leasehold or property interest of any kind in the Special Devices shall vest in Railroad by reason of this Agreement or the delivery to or use by Railroad of Cars equipped with Special Devices.

SECTION 12. If Railroad shall fail to carry out or perform any of its obligations under this Agreement, or if a petition in bankruptcy, or for reorganization, or for a trustee or a receiver, is filed by or against Railroad, and any such default or event or failure shall continue for a period of thirty days after notice given by Trailer Train to Railroad, Trailer Train may elect to terminate this Agreement as to all Cars equipped with Special Devices, and upon the request of any Owner shall terminate this Agreement, as to all Cars of such Owner equipped with Special Devices, by mailing to Railroad notice of such termination. Upon receipt of the termination notice, Railroad shall within five days return at its expense to the appropriate Owner or Owners all Cars equipped with Special Devices. Either Trailer Train or

the respective Owners shall have the right in the event any Cars equipped with Special Devices are not returned within said five day period to take possession of any Cars equipped with Special Devices and to remove them from Railroad's service and property, and Railroad shall be liable for all expenses in connection therewith. Notwithstanding termination of this Agreement, Railroad shall be liable for all user charges and all other obligations to be performed by it under the terms of this Agreement which may accrue or exist to and including the date or dates of return to the Owners of the Cars equipped with Special Devices. All overdue obligations of Railroad payable in money shall bear interest at the rate of 6% per annum from the date payment thereof is due to the date of their payment. The rights and remedies herein given to Trailer Train and/or Owners (i) shall not in any way limit their respective remedies given or provided by law or in equity, and (ii) shall not in any way limit the rights and remedies of Trailer Train under any other contract with Railroad relating to Trailer Train Cars.

SECTION 13. It is understood and agreed that any termination of this Agreement whether by reason of default of Railroad, or for any other reason, shall not relieve Railroad of any of its obligations or liabilities hereunder not performed or paid by it at the time of ter-

mination of this Agreement or which by the terms hereof are to be performed or paid after termination of this Agreement, including the obligations of Railroad under the terms of Sections 1, 2, 5, 6, 8 and 12 hereof.

SECTION 14. This Agreement is subject to all Federal, state and municipal laws, rules, regulations and ordinances which may now or hereafter affect, change or modify the terms or conditions hereof or render unlawful the performance of any of the provisions of this Agreement.

SECTION 15. Except as otherwise provided in Sections 10 and 12 hereof, this contract shall be binding upon the parties hereto and their respective corporate successors for a period of one year from the date hereof, and thereafter shall automatically continue from year to year; provided, however, that either party may terminate this Agreement upon giving to the other written notice of termination, which notice shall be given not less than thirty days prior to the end of the first, or any succeeding, year of this contract, in which event this Agreement shall terminate at the end of the current contract year.

SECTION 16. Railroad hereby agrees that it will not assign this Agreement or its rights hereunder (except to a corporate successor as permitted by Section 15 hereof) or lease, sublease or otherwise enter into contracts or agree-

ments purporting to transfer the right to use or possess any Special Device to any person, firm or corporation unless it shall have secured the prior written consent of the Owner of the Special Device and of Trailer Train as the owner of the Car equipped with such Special Device.

SECTION 17. Railroad hereby agrees that it will not deliver any empty Car equipped with Special Devices to any railroad not a party to an agreement with Trailer Train similar to this Agreement (except for delivery to switching, belt, terminal and plant railroads for delivery to a railroad which is a party to an agreement with Trailer Train similar to this Agreement) unless Railroad shall first have secured the written consent of the Owner of the Special Devices.

SECTION 18. Railroad and Trailer Train agree that Schedule B hereto may be amended from time to time to add additional railroads thereto. Railroad and Trailer Train also agree that in the event Railroad is an Owner named in Schedule B hereto Railroad shall for the purposes of this Agreement be deemed to be an "Owner" in respect of the Special Devices which Railroad has caused to be placed on Cars and as to all other Special Devices Railroad shall not be deemed to be an "Owner."

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SECTION 19. Although this contract may be dated a later date, it shall be effective for the purposes of accounting between the parties from and after September 1, 1960.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in duplicate, by their duly authorized officers as of the day and year first above written.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

By: *R. B. Buckner*

Title: Vice President-Operations

Attest: *R. B. Buckner*

Assistant Secretary

Date: April 6, 1961

TRAILER TRAIN COMPANY,

By: *John E. Wrightman Jr.*

Title: GENERAL MANAGER

Attest: *R. B. Buckner*

ASSISTANT SECRETARY

Date: OCT 5 1961

SCHEDULE A

Daily User Charges for Special Devices

Bi-Level Superstructures	\$10.00 per Car
Tri-Level Superstructures	\$12.25 per Car

SCHEDULE B

(Revised to October 1, 1966)

OWNER RAILROADS FOR WHICH TRAILER TRAIN
COMPANY IS TO COLLECT SPECIAL DEVICES
USER CHARGES

The Atchison, Topeka and Santa Fe Railway Company
Atlantic Coast Line Railroad Company
The Baltimore and Ohio Railroad Company
Boston and Maine Railroad
The Chesapeake and Ohio Railway Company
Chicago and North Western Railway Company
Chicago, Burlington and Quincy Railroad Company
Chicago Great Western Railway Company
Chicago, Milwaukee, St. Paul and Pacific Railroad Company
Chicago, Rock Island and Pacific Railroad Company
Denver and Rio Grande Western Railroad Company
Detroit, Toledo and Ironton Railroad Company
Erie-Lackawanna Railroad Company
Florida East Coast Railway Company
Great Northern Railway Company
Gulf, Mobile and Ohio Railroad Company
Illinois Central Railroad Company
The Kansas City Southern Railway Company
Louisville and Nashville Railroad Company
Missouri-Kansas-Texas Railroad Company
Missouri Pacific Railroad Company
The New York Central Railroad Company
New York, Chicago and St. Louis Railroad Company
Norfolk and Western Railway Company
Northern Pacific Railway Company
The Pennsylvania Railroad Company
Reading Company
Richmond, Fredericksburg and Potomac Railroad Company
St. Louis-San Francisco Railway Company
St. Louis Southwestern Railway Company
Seaboard Air Line Railroad Company
Southern Pacific Company
Southern Railway Company
Texas and Pacific Railway Company
Toledo, Peoria and Western Railroad Company
Union Pacific Railroad Company
Wabash Railroad Company
Western Maryland Railway Company
Western Pacific Railroad Company

Re: Trailer Train Company Special Devices Contract
(Form D)

Trailer Train Company
43 Haverford Station Road
Haverford, 1, Pennsylvania

Dear Sirs:

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (herein-
(name of owner railroad)
after called the "Owner"), has acquired or is about to acquire superstructures which have been or will be attached to the Trailer Train Company cars listed in the attached schedule. The attached schedule shall be revised from time to time as superstructures are applied to or removed from Trailer Train Company cars. This letter will evidence Owner has agreed that:

1. The terms and provisions of the Form D contract shall be applicable with respect to the use of the superstructures of Owner by railroads which have entered into the Form D contract with Trailer Train Company (hereinafter called "Trailer Train").

2. Trailer Train is authorized on behalf of Owner to enter into Form D contracts with all railroads which may be stockholders of Trailer Train or which may be a party to a Form C car contract with Trailer Train with the understanding that Trailer Train will notify Owner of the names of all railroads executing the Form D contract.

2.

3. Owner will be bound by the terms and provisions of the Form D contract relating to Owner's rights and obligations as such contract may from time to time be supplemented or amended with the consent of all the Owners who have authorized and have not terminated the making of a Form D contract on their behalf; subject, however, to the rights of termination given in Sections 12 and 15 of the Form D contract which rights Trailer Train will exercise for Owner upon request from Owner.

4. Trailer Train is authorized to collect, as provided in the Form D contract, the user charges for use of the superstructures listed in the attached schedule as from time to time revised, such user charges to be collected for the period commencing September 1, 1960, and the amounts collected to be remitted promptly to Owner as soon as collected, less a charge for collection thereof of \$1.35 per car set of superstructures per month (and less any taxes which are to be paid or withheld by Trailer Train). The foregoing charge for collection is subject to increase or decrease in the event the actual costs of collection of Trailer Train shall be more or less than the above specified amount.

5. Trailer Train shall not be responsible for the failure of any user of superstructures to make any

3.

payments required to be made by it pursuant to the Form D contract or to comply with any of the provisions of such contract. Trailer Train shall not be required to institute legal proceedings for collection of any sums payable to Owner pursuant to the Form D contract unless Owner has made arrangements satisfactory to Trailer Train to pay or to reimburse to Trailer Train its expenses in connection with any such legal proceeding.

6. Owner will notify Trailer Train of the Railroads and cars equipped with superstructures in respect of which Trailer Train is not to collect user charges pursuant to Section 3 (b) of the Form D contract.

7. Owner will from time to time supply to Trailer Train and to the user railroads all information which may be needed in order to carry out the provisions of the Form D contract, including the last sentence of Section 6 (a) thereof, and to keep current the information contained in the attached schedule.

Very truly yours,

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
(name of owner railroad)

By:

CR. Sweeney

Vice President-Operations
(title)

Dated: April 6, 1961

SCHEDULE OF SUPERSTRUCTURES ON TRAILER TRAIN CARS OF THE ATCHISON, TOPEKA & SANTA FE R.R.

<u>TRAILER TRAIN CAR NOS.</u>	<u>TYPE OF SUPERSTRUCTURE</u>	<u>NAME OF MANUFACTURER OF SUPERSTRUCTURE AND ITS SPECIFICATION NO.</u>	<u>MONTH AND YEAR OF APPLICATION TO CAR</u>
474534	Bi-Level	Dana Corp. 700006 - B1	10-18-60
474517	"	"	"
474644	"	"	10-17-60
474648	"	"	10-18-60
474649	"	"	10-17-60
474544	"	"	10-20-60
474557	"	"	"
474565	"	"	"
474554	"	"	10-21-60
474555	"	"	10-20-60
474541	"	"	10-21-60
474546	"	"	"
474551	"	"	10-24-60
474562	"	"	"
100245	"	"	10-25-60
100246	"	"	"
100247	"	"	"
100361	"	"	10-31-60
100228	"	"	10-24-60
100244	"	"	10-25-60
100224	"	"	"
100225	"	"	10-26-60
100223	"	"	"
100226	"	"	10-25-60
100227	"	"	10-26-60
100229	"	"	10-27-60
100248	"	"	10-26-60
100249	"	"	10-25-60
474524	"	"	10-26-60
474520	"	"	10-27-60
474646	"	"	"
474645	"	"	"
100218	"	"	"
100217	"	"	10-28-60
100221	"	"	"
100233	"	"	10-31-60
100231	"	"	10-28-60
100232	"	"	"
100216	"	"	"
100222	"	"	10-29-60
100220	"	"	"
100219	"	"	"
100363	"	"	10-31-60
100362	"	"	"

CHEDULE OF SUPERSTRUCTURES ON TRAILER TRAIN CARS OF THE ATCHISON, TOPEKA & SANTA FE R.R.

<u>TRAILER TRAIN CAR NOS.</u>	<u>TYPE OF SUPERSTRUCTURE</u>	<u>NAME OF MANUFACTURER OF SUPERSTRUCTURE AND ITS SPECIFICATION NO.</u>	<u>MONTH AND YEAR OF APPLICATION TO CAR</u>
100360	Tri-Level	Dana Corp. 700005 - Tr1	11- 1-60
100332	"	"	"
100701	"	701046 - D	8-14-61
100748	"	"	"
100749	"	"	"
100712	"	"	"
100718	"	"	8-15-61
100760	"	"	"
100764	"	"	"
100700	"	"	8-16-61
100721	"	"	"
100762	"	"	"
100722	"	"	8-17-61
100767	"	"	"
100744	"	"	8-18-61
100713	"	"	"
100740	"	"	8-21-61
100717	"	"	"
100780	"	"	"
100743	"	"	8-22-61
100741	"	"	"
100779	"	"	"
100782	"	"	8-23-61
100786	"	"	"
100719	"	"	"
100742	"	"	8-24-61
100746	"	"	"
100745	"	"	"
100768	"	"	"
100680	"	"	8-25-61
100697	"	"	"
100747	"	"	"
100696	"	"	8-28-61
100681	"	"	"
100702	"	"	"
100686	"	"	8-29-61
100691	"	"	"
100703	"	"	"
100683	"	"	"
100704	"	"	"
100692	"	"	"
100699	"	"	8-30-61
100695	"	"	8-30-61
100684	"	"	"

SCHEDULE OF SUPERSTRUCTURES ON TRAILER TRAIN CARS OF THE ATCHISON, TOPEKA & SANTA FE R.R.

<u>TRAILER TRAIN CAR NOS.</u>	<u>TYPE OF SUPERSTRUCTURE</u>	<u>NAME OF MANUFACTURER OF SUPERSTRUCTURE AND ITS SPECIFICATION NO.</u>	<u>MONTH AND YEAR OF APPLICATION TO CAR</u>
100678	Tri-Level	Dana Corp. 701046 - D	8-30-61
100687	"	"	"
100694	"	"	8-31-61
100698	"	"	"
100637	"	"	"
100778	"	"	"
478458	"	"	"
100783	"	"	9- 2-61
100757	"	"	"
100758	"	"	"
100759	"	"	9- 5-61
100777	"	"	"
100776	"	"	"
100755	"	"	"
100775	"	"	"
100750	"	"	"
100756	"	"	"
100752	"	"	"
100771	"	"	9- 6-61
100772	"	"	"
100763	"	"	"
100769	"	"	"
100770	"	"	"
100773	"	"	9- 7-61
100774	"	"	"
100765	"	"	"
100761	"	"	"
477216	"	"	9- 8-61
477222	"	"	"
477205	"	"	"
477260	"	"	"
477261	"	"	"
100766	"	"	"

Re: Trailer Train Company Special Devices Contract

Trailer Train Company
43 Haverford Station Road
Haverford 1, Pennsylvania

Dear Sirs:

The THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
(Name of owner railroad)

(hereinafter called the "Owner"), hereby agrees to the following changes to be made effective as of September 1, 1960, in the letter dated April 6, 1961 of the Owner to Trailer Train Company (hereinafter called "Trailer Train"):

1. The term "Form D Contract" as used in said letter shall be deemed to include Supplement No. 1 to the Trailer Train Company Special Devices Contract (Form D).

2. Paragraph 4 of said letter shall be supplemented by the addition of the following:

"Trailer Train is also authorized to accept and/or to endeavor to collect the user charges for use of the above-mentioned superstructures from all railroads which have not entered into a Form A or Form C Car Contract with Trailer Train and which have entered into agreements with Owner relating to the payment for such user charges; and the amounts accepted or collected shall be remitted promptly to Owner, less any taxes to be withheld and less the collection charge hereinbe-

2.

fore mentioned in this paragraph 4. Owner shall furnish to Trailer Train a copy of each agreement in respect of which Trailer Train is to accept and/or endeavor to collect user charges for superstructures of Owner. In the event any part of such user charges shall include compensation for the use of Trailer Train cars to which the superstructures are attached, Trailer Train is authorized to deduct from such amounts received or collected the sum or sums payable to it in respect of such cars pursuant to the terms of the Form A or Form C Car Contracts as supplemented from time to time."

Very truly yours,

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
(Name of Owner Railroad)

By: W. E. Duffy

Vice President-Traffic

Title

Dated: June 6, 1962

SUPPLEMENT NO. 1 TO TRAILER TRAIN COMPANY
SPECIAL DEVICES CONTRACT (FORM D)

It is hereby agreed that effective as of September 1, 1960, the Special Devices Contract (Form D) is amended as follows:

1. Section 2 is supplemented by the addition of the following paragraph:

"Section 2 (d). Railroad shall not be responsible for the user charges for Special Devices on any Trailer Train Car while on the lines of a railroad which does not have an effective agreement with Trailer Train for such Car and which has entered into an agreement with the Owner of the Special Devices relating to the Special Devices of such Owner or to a Trailer Train Car so equipped."

2. Section 9 is deleted and the following substituted in place thereof:

"Section 9. No reclaim or abatement of any part of any user charge for Special Devices will be allowed to Railroad unless such reclaim is auth-

-2-

orized to be made by the Owner of the Special
Devices."

APPROVED:

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

By: G. E. Duffy
Title: Vice President-Traffic

ATTEST:

P. B. Joseph
Assistant Secretary
Date: June 6, 1962

TRAILER TRAIN COMPANY

By: John E. Wightman Jr.
Title: GENERAL MANAGER

ATTEST:

J. Manning
ASSISTANT SECRETARY
Date: MAY 25 1962

SUPPLEMENT NO. 2 TO TRAILER TRAIN COMPANY
SPECIAL DEVICES CONTRACT (FORM D)

It is hereby agreed that Section 6 (c) (ii) of the
Special Devices Contract (Form D) is amended to read as follows:

(ii) If the Special Device is lost, destroyed
or damaged beyond repair, an amount computed in
accordance with Rule 112, Section B.5. of the
Interchange Rules of the Association of American
Railroads, or any other rule which may at any future
time be issued in place thereof.

APPROVED: ATCHISON, TOPEKA, AND SANTA FE RAILWAY SYSTEM

W. H. Carazza

Date 12/6-65

By _____
Title Vice-President - Traffic

TRAILER TRAIN COMPANY,

Date DEC 3 1965

By [Signature]
Title President

SUPPLEMENT NO. 3 TO TRAILER TRAIN COMPANY
SPECIAL DEVICES CONTRACT (FORM D)

It is hereby agreed that Schedule A of the Special Devices Contract
(Form D) is amended and revised by adding the following special device
and daily user charge therefor:

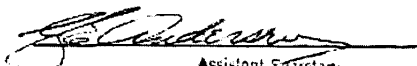
Vert-A-Pac Superstructures

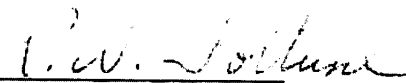
\$26.50 per car

APPROVED:

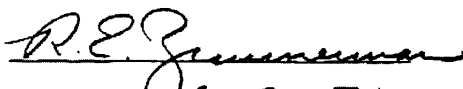
THE ADDISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

Attest:

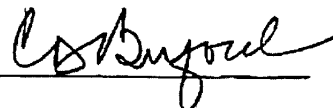

Assistant Secretary
Date 7-21-71

By 
Title ASSISTANT TO VICE PRESIDENT-OPERATIONS

Attest:


Date 06-22-71

TRAILER TRAIN COMPANY,

By 
Title President



43 HAVERFORD STATION ROAD, HAVERFORD, PA. 19041

November 30, 1964

Dear Mr. _____:

As reported at Trailer Train Company's Board of Directors Meeting, November 20th, 1964, the monthly charge being made by Trailer Train Company to owners of auto racks attached to TTX cars, for collection of sums due to such owners for use of their racks, which collection charge is provided for in Paragraph 4 of Letter Agreement with your company, which became effective September 1, 1960, is being reduced from \$1.35 to \$.90 per month, per car set of superstructures (less any taxes which are to be paid or held-out by Trailer Train), effective with the month of December, 1964.

Yours truly,

J. P. Newell
President

SUPPLEMENT NO. 4 TO TRAILER TRAIN COMPANY
SPECIAL DEVICES CONTRACT (FORM D)

It is hereby agreed that Schedule A of the Special Devices
Contract (Form D) is amended and revised by adding the following
special device and daily user charge therefor:

Tie anchor assemblies for 60 foot
cars equipped with bulkheads \$1.16 per car

APPROVED:

The Atchison, Topeka and Santa Fe
Railway Company

ATTEST:

(Railroad)

E. F. Reagin
Date: September 9, 1974

By [Signature]
Title: Vice President

ATTEST:

TRAILER TRAIN COMPANY

[Signature]
Date: July 31, 1974

By [Signature]
Title: President

**TRAILER TRAIN
COMPANY**

300 SOUTH WACKER DRIVE • CHICAGO, ILLINOIS 60606
(312) 786-1200

CURTIS D. BUFORD
PRESIDENT

August 3, 1977

TO: Secretaries of Trailer Train Company
Special Devices Contract (Form D) Signatories

Re: Collection of user charges for special devices
and criteria for future Form D supplementation.

Gentlemen:

Pursuant to action taken by the Board of Directors of Trailer Train Company on July 28, 1977, the Company's present administrative charge of \$.90 per car per month for the collection of user charges on behalf of owners of special devices described in the Form D contract, as supplemented, will be adjusted, effective as of October 1, 1977, as follows:

\$1.00 per car per month for groups of 100 or more cars equipped by a railroad with a special device; and

\$2.00 per car per month for groups of 99 or fewer cars equipped by a railroad with a special device.

In addition, the Board concluded that groups of no fewer than 50 cars equipped with a special device by a railroad would be considered for future supplementation of the Form D contract.

Please place this letter with your permanent copy of the Form D contract for future reference.

Sincerely,



SUPPLEMENT NO. 5 TO TRAILER TRAIN COMPANY
SPECIAL DEVICES CONTRACT (FORM D)

Pursuant to action taken by the Board of Directors of Trailer Train Company on May 26, 1977, it is hereby agreed that Schedule A of the Special Devices Contract (Form D) is amended and revised, effective as of July 1, 1977, as follows:

Daily User Charges for Special Devices

<u>Car Type</u> <u>Code</u>	<u>Description: Auto-Rack</u> <u>Superstructures</u>	<u>Years in Service and Rate</u>		
		<u>1 - 5</u>	<u>6 - 10</u>	<u>11 and Over</u>
V 3 _ _	Bi-level rack, fully enclosed	\$20.50	\$16.50	\$ 6.50
V 4 _ _	Tri-level rack, fully enclosed	\$23.75	\$19.00	\$ 6.75
V 8 _ _	Tri-level rack, partially enclosed (Railpax)	\$21.50	\$17.50	\$ 6.50

The Association of American Railroads' Code of Car Hire Rules, Rule a(1) (penalty provision), will apply to the above Special Devices when applied to Trailer Train Company cars.

APPROVED:

ATTEST:

M. Schickel

Date: JUL 29 1977

ATTEST:

D. Williams

Date: June 24, 1977

THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY
(Railroad)

By

Title: VICE PRESIDENT

TRAILER TRAIN COMPANY

By

Title: President

SUPPLEMENT NO. 6 to the
TTX COMPANY FORM D CAR CONTRACT

Pursuant to action taken by the Board of Directors on July 1, 2002, car hire rates and mileage charges for the use of the Company's automobile rack fleet, as set forth on the attached Exhibit A made a part of this Supplement, shall be in effect as of July 1, 2002.

Pursuant to action taken by the Board of Directors on March 14, 1997, with respect to cars equipped with automobile racks owned by the Company, Carrier shall be relieved of the payment of otherwise applicable car hire charges after the expiration of fifteen days notice from Carrier to the Company provided such notice is given in accordance with the terms and conditions set forth in Supplement No. 121 to the Form A Car Contract.

TTX COMPANY

By:


A. F. Reardon, President
and Chief Executive Officer

July 8, 2003

Exhibit A

**TTX COMPANY
CAR HIRE CHARGES
SUPPLEMENT NO.
EFFECTIVE
July 1, 2002**

<u>Initial</u>	<u># Of Platforms, Wells or Length</u>	<u>Rate Per Hour</u>	<u>Description</u>
<u>Auto Rack Fleet</u>			
ETTX	89'4"	0.72	Enclosed Tri-level Racks (Hydraulic Draft Gears)
ETTX	89'4"	2.26	Enclosed Tri-level Racks (Hydraulic Draft Gears) - TTX Owned
TTBX	89'4"	0.67	BI-level Racks (Hydraulic Draft Gears)
TTQX	89'4"	0.72	Enclosed BI-level Racks (Hydraulic Draft Gears)
TTQX	89'4"	0.72	Enclosed Tri-level Racks - 20' 2" Excessive Height (Hydraulic Draft Gears)
TTSX	89'4"	0.72	Coverless Enclosed BI-level Racks (Hydraulic Draft Gears)
BTTX		2.43	Articulated BI-level Autorack
TTNX	89'4"	0.72	Enclosed BI-level Rack (Hydraulic Draft Gears)

Ⓢ - The hourly rates on these car types have changed, or a new rate has been established for a new car type. All other hourly rates remain unchanged.

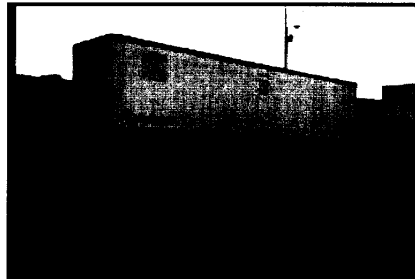
THE **TTX** FLATCAR POOL
ILLUSTRATIVE EQUIPMENT TYPES

TTX Intermodal Flatcars



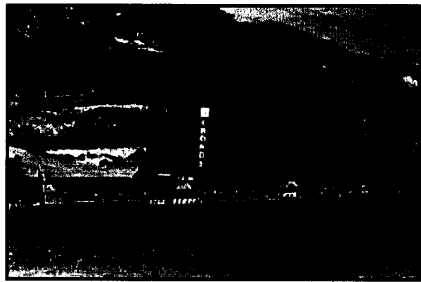
DTTX

5-unit articulated
doublestack car



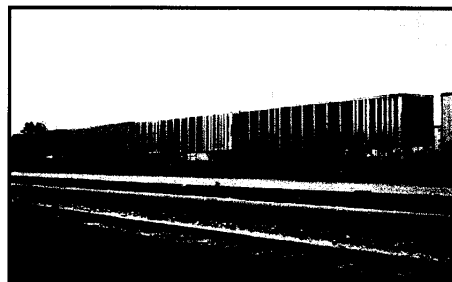
DTTX

single-unit all-purpose
doublestack car



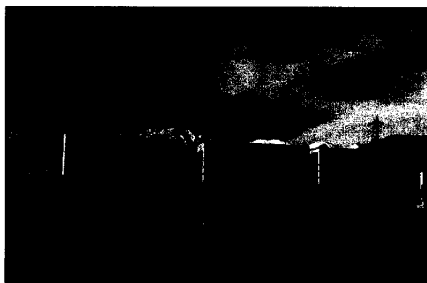
TTCX

single-unit 60-foot
COFC flatcar



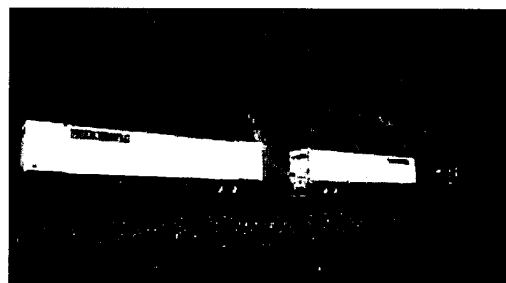
TTAX

5-unit articulated 53-foot
all-purpose spine car



RTTX

89-foot flat for
three 28-foot trailers

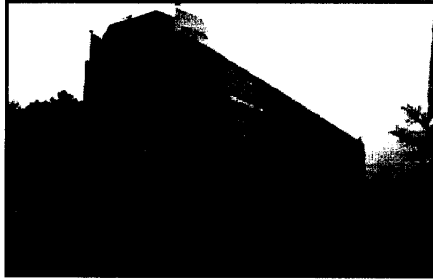


TTEX

drawbar-connected 89-
foot flats for trailers

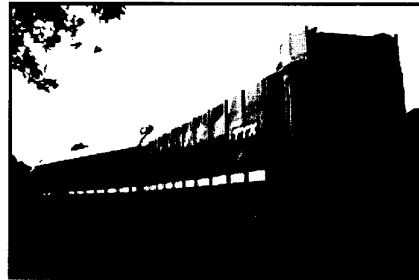
TTX

TTX Automotive Flatcars



ETTX

fully-enclosed 89-foot
tri-level autorack



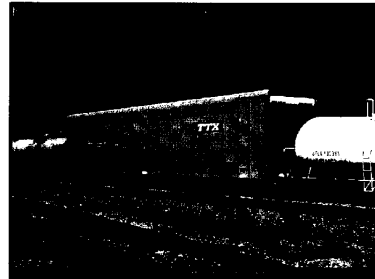
BTTX

two-unit 140-foot
articulated bi-level autorack



FTTX

89-foot auto frame
flatcar

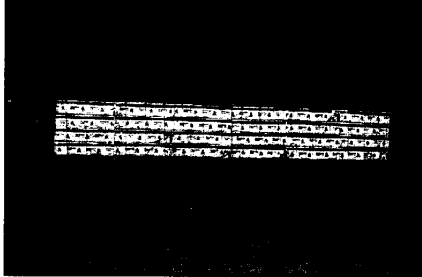


TTUX

89-foot Uni-Level car for
hauling large vehicles

TTX

TTX Specially Equipped Flatcars



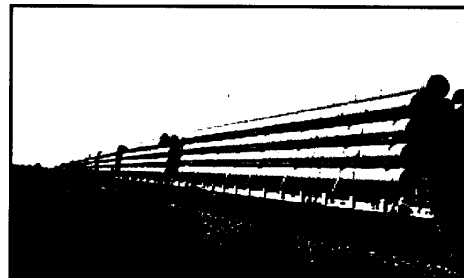
TTZX
76-foot centerbeam
lumber car



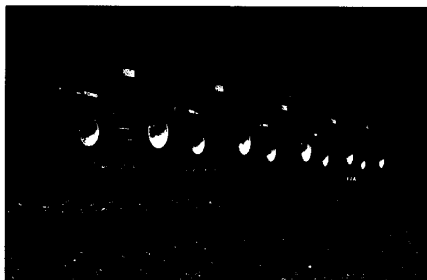
TPPX
68-foot bulkhead flat



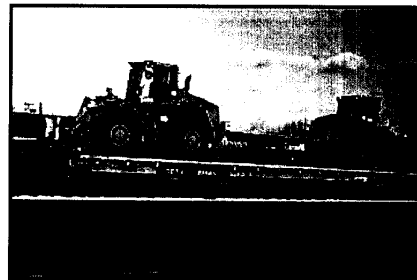
QTTX
70-foot
heavy-duty flatcar



JTTX
89-foot standard flat
for pipe service



ITTX
89-foot
chain tie-down flatcar



OTTX
60-foot wood deck
chain tie-down car

TTX